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Vol. VI

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1927.

No. 603

L. P. LARSON, JR., COMPANY, PETITIONER,

vs.

WM. WRIGLEY, JR., COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR CERTIORARI FILED NOVEMBER 4, 1927

CERTIORARI GRANTED DECEMBER 5, 1927

(33,055)

IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1927.

No.

L. P. LARSON, JR. COMPANY,
Petitioner,

vs.

WM. WRIGLEY, JR. COMPANY,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

RECORD

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FOR THE SEVENTH CIRCUIT.

OCTOBER TERM, A. D. 1925.

No. 3727

L. P. LARSON, JR., COMPANY,

Appellant,

vs.

WM. WRIGLEY, JR., COMPANY,

Appellee.

No. 3728

WM. WRIGLEY, JR., COMPANY,

Appellant,

vs.

L. P. LARSON, JR., COMPANY,

Appellee.

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(*Introduced by Wm. Wrigley Jr. Co.*)

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(Introduced by Wm. Wrigley Jr., Company.)
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(*Introduced by L. P. Larson Jr., Company.*)

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(*Introduced by L. P. Larson Jr., Company.*)

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HAROLD BENNINGTON, resumed the stand for further direct examination by Mr. Mayer:

The sales referred to in column 10 of Wrigley Exhibit 92, Bennington 16 that shows "% of D/M to all sales as used in filed a/c" are the sales of everything including gum and merchandise, and are the sales shown in column 2 of this statement, if that is of interest.

6975 Column 9 excludes merchandise and also excludes private brands. It gives the percentage of Doublemint to the other gum sales.

I have prepared a statement showing the advertising which would be chargeable to Doublemint on the basis of measuring the deferred value of advertising to the Wrigley Company by a determination of the increase in value of the supposed good will of the company during the accounting period calculated in accordance with the theory and figures of Larson Exhibit 151, except that in-
(4692) crease in the supposed good will is determined separately for each accounting period and the balance applied to Doublemint in the proportion that the Doublemint sales of each period bear to the total sales of each period.

(The witness produced said statement which was headed "Statement showing Advertising which would be chargeable to Doublemint on basis of measuring deferred value of advertising to the Wrigley Company," etc.)

(Mr. Mayer offered the statement in evidence. It was received in evidence and marked Wrigley Exhibit 92, Bennington 17.)

6976 I have examined the circular or prospectus which is in the record, purporting to have been issued by F. B. Hitchcock & Company regarding the stock of the Wm. Wrigley Jr. Company and which contains some figures respecting the profits of the Wm. Wrigley Jr. Company. I have prepared a statement reconciling 1917 and 1918 profits shown by the Wm. Wrigley Jr. Company's books of account with the profits as indicated in that Hitchcock circular.

(The witness produced said document, and Mr. Mayer offered it in evidence.

It was received in evidence over the objection of Mr.
6977 Aldrich and marked Wrigley Exhibit 92, Bennington 18.)

Referring to page 101 of Wrigley Exhibit 92, Bennington 1, the statement does appear on page 102 thereof. I have examined the books of the Wm. Wrigley Jr. Com-
6978 pany and satisfied myself that the figures shown are correct. I mean that the figures shown on pages 101 and 102 are correct, and that the statements made in regard to them are correct.

(4693) The figures shown on page 106 of my report are correct as stated, and the computation was made by me and is correct in accordance with the theory as defined on that page.

There is a paragraph on the middle of page 106 entitled in capitals "Doublemint Profits", and underneath that is a line reading "as per revised account Exhibit A (1917) $361,428.86". The document to which I refer in that line as Exhibit A is the statement appearing on page 23 of this same report.

The figures appearing on page 107 of that report are correct as shown by the books and records of the Wm. Wrigley Jr. Company as examined by me.

I have examined Freeman's Exhibits as to the valuation of good will. I have before me Larson Exhibit 140, Larson Exhibit 145, and Larson Exhibit 145-A. I observe that in Larson Exhibit 140 there is a calculation of good will valuation made allowing interest on invested capital at seven per cent, and also at eight per cent,
6980 and also at nine per cent, and also at ten per cent, and that on Exhibit 145-A the good will is arrived at by figuring interest on tangible capital only at six per cent interest and also at seven per cent interest.

If a formula is to be used for the ascertainment of a good will valuation based upon allowing interest on invested capital and deducting that interest from an average annual profit for a given period of time, and multiplying the difference by a certain multiple representing what is called years of purchase, I will state what rate of interest in my opinion should be allowed on invested capital:

The rate of interest to be allowed on invested capital should, in my opinion, vary with the character of the busi-
(4694) ness involved. Obviously, a manufacturer who engages in, say, making explosives would expect to get a larger yield on his investment before he reached a point where he was so much in the clear that he could capital-

ize his excess earnings than would a man who was engaged in the manufacture of some staple products, such as, say, steel. My own personal view is that in a calculation such as the one in question a rate of interest considerably in excess of six or seven per cent should be employed, because I feel that before a manufacturer has
6981 reached a stage where he is making profits which can be capitalized as good will, that he should first receive a yield sufficient to compensate him for the hazardous character of the business he goes into. What I mean by that is that, of course, he could go and buy a good commercial bond that would yield him about 7½%, during this accounting period at any rate, without any risk whatever, and he would be a perfect idiot, therefore, to engage in a commercial business unless he was expecting to earn considerably more than that 7½%, and I feel that until he has got somewhere between seven and fifteen per cent, varying with the character of the business, he has not reached a stage where you can say that he has got such a terrific edge on his competitors that he can capitalize the further surplus earnings or the surplus earnings.

I would like to add this: It occurs to me to give this additional reason as to why it would be unfair to expect only seven or eight per cent. It has constantly come under my notice that in the sale of a going concern of business on the occasion of the decease of the owner, you can very seldom secure anything for the good will of the business unless the earnings are very substantially over
(4695) ten per cent. The usual thing is that the purchaser
6982 will offer to take it over for the book value of the plant, the physical assets, and so forth. Very often he will want a discount on that, but you have got to have a very substantial earning capacity before anyone will pay anything for the good will. No one would pay anything for a business that was only paying 9% say, on the capital invested; they would think they were probably purchasing a liability rather than an asset, in my experience.

I know of no accounting rule recognized by competent accountants which fixes the precise amount of interest that should be calculated upon invested capital or tangible capital before determining the question as to whether profits are abnormal or more than can be earned by investing the money by way of loans or preferred stocks.

I consider that each case would have to be decided on its merits.

There is no accounting rule which says or recognizes that the proper amount of interest to be allowed on tangible capital in determining good will value is six per cent
6983 or seven per cent or any given rate per cent.

(Mr. Lane then took up the direct examination.)

I have prepared a statement of the sales of gum wrapped in special brands as distinguished from the regular counterbands of the Wm. Wrigley Jr. Company. That statement covers the gum made by the Wm. Wrigley Jr. Company for the following companies whose names are specially printed on each of such labels, and in connection with sales in certain countries outside of the United States, as follows: Van-Noy Interstate Company; the Union News Company; Parker Railway News Company;
6984 Long Island News Company. Inter-City Car Advertis-
(4696) ing Company; Crescent News and Hotel Company; Broadway, Subway and Home Borough Car Advertising Company, Incorporated; A. D. & N. Co. And the countries of North China, France, Java and Straits Settlements. That statements refers to so-called Doublemint gum.

(The witness then produced the document which had theretofore been marked as "Wrigley Exhibit 91, offered, not admitted.")

6985 I have prepared also in that connection a statement showing the profits or losses arising from the sale of the Doublemint gum wrapped in the special counterbands referred to and which appear in evidence as Wrigley Exhibits 79 to 90, inclusive.

(The witness then produced the said document which was marked for identification Wrigley Exhibit 92, Benninton 19. It was offered in evidence by Mr. Lane. Mr. Aldrich objected.)

6988 March 8, 1923.
10:30 o'clock, A. M.

(Mr. Lane stated that it was not intended by the offer of Wrigley Exhibit 92, Bennington 19, and the testimony in connection therewith, to change or question the profit figures already in the record, but that the sole purpose was to segregate the gum that was put out under the

different wrappers so that in case the Master or the Court should hold the gum put out under some of the wrappers should not be included in the accounting, the figures would be present so that a final decree might be entered without re-reference to the Master.

(4697) The Master thereupon overruled Mr. Aldrich's objection to the admission of the document marked Wrigley Exhibit 92, Bennington 19, and it was received in evidence.) Said Exhibit is an account showing profits and losses during the accounting period resulting from the sale of Doublemint gum enclosed in counterband wrappers which did not bear the following imprint:

"Made by the Manufacturers of the Famous Wrigley's Spearmint Wm. Wrigley Jr. Co.
Chicago New York Toronto London"

and said account shows a net loss and shows in detail how the same was arrived at.

(4698) The number of boxes of gum that were shipped to the
6989 various companies whose names are specially printed on the labels, and in connection with sales in certain countries outside of the United States, which sales were of gum wrapped in those special counterbands that appear as Wrigley Exhibits 79 to 90, inclusive, was 559,831, the selling price of which is $278,160.45. The number of boxes is shown on statement No. 2 and the sales in dollars are shown in statement No. 1. The document I have just referred to is Wrigley Exhibit 92, Bennington 19.

Wrigley Exhibit 92, Bennington 19, sets out, as shown by the books and records of the Wm. Wrigley Jr. Company the gum wrapped in Wrigley Exhibits 79 to 90, inclusive, sold to the companies and in the countries in the list which I gave in connection with my prior testimony concerning those exhibits.

6991 The figures of account and the statements and conclusions contained in Wrigley Exhibit 92, Bennington 19, correctly show the situation as to the number of boxes sold and the amount received therefor and the profit or loss derived therefrom of gum manufactured and sold by the Wm. Wrigley Jr. Company to the various concerns and to the different countries which I have mentioned in the few preceding answers in the counterbands, Wrigley Exhibits 79 to 90, inclusive, during the accounting period.

In other words, Wrigley Exhibit 92, Bennington 19 correctly shows the facts therein purported to be stated.

(4699) EDWARD W. ECKERLY, resumed the stand for further direct examination by Mr. Lane:

6991 The figures on Wrigley Exhibit 91 correctly show the number of boxes of Doublemint gum sold in the special
6922 counter bands, Wrigley Exhibit 79 to 90, inclusive, during the accounting period, and the figures there correctly show the same divided according to periods as shown by the books of the Wm. Wrigley Jr. Company.

The information shown on that exhibit Wrigley 91 is correct. It shows all the sales during the accounting period of Doublemint gum wrapped in any of the Wrigley Exhibits from 79 to 90, inclusive.

(Mr. Lane then offered in evidence Wrigley Exhibit 91, which had theretofore been offered, but not admitted, subject to Mr. Aldrich's objection.

The Master admitted it in evidence subject to Mr. Aldrich's objection, and with the same stipulation as has been made with respect to Wrigley Exhibit 92, Bennington 19.)

6993 HAROLD BENNINGTON, resumed the stand for further direct examination:

I desire to make a correction in the testimony I gave yesterday.

The point was this: I was asked whether, assuming that the formula for valuing good will advanced by Freeman was a reasonable and correct one to be adopted, what in my opinion was the correct or the best number of years over which to average the profits, and I was speaking gen-
(4700) erally and not of the Wrigley Company in particular and I said that the longer the period the more reliable the average would be in the absence of violent fluctuations, or words to that effect, and it occurs to me, thinking it over afterwards, that that would not be so. If a business had been showing a steady growth, it would be unfair to take an average extending over, say, ten years, it would be much more reasonable to take the last two or three years if the growth had been steady and normal and

the conditions existing at the time the value was being made were not abnormal.

In other words, in such a case the number of years purchase to be taken should not be controlled by the length of time the business had been in existence, and it
6994 would not be well to take a large number of years. If a business started, say, with five hundred dollars and gradually built up to a million dollars in the period of ten years, if you take a ten years' average, you get a very low average; whereas if the growth has been steady, if would be very much fairer to take, for the purpose of a sale, the last two years or the last three years.

6995 March 8, 1923.
2 o'clock, P. M.

On page 3 of Wrigley Exhibit 92, Bennington 19, under the head note "Interest" I say, "In our opinion if interest on tangible property is to be allowed as a charge against profits in this account, then interest on good will should also be charged. The item of good will to which I there refer is an item which I take at six million dollars. That is the book value. That six million dollar item is part of the seven million five hundred thousand dollar
(4701) good will item that was put on the books about January 1, 1911.

In statement 1 attached to Wrigley Exhibit 92, Ben-
6996 ning 19, under "expenses" I have an item "Interest on capital invested in patents and patent rights." In making my calculations, I assumed that the value of the patents on January 1, 1911, was $1,500,000. When I refer to patents I include patent rights and inventions.

The good will referred to in the next item on that statement 1 which reads "Interest on capital invested in good will" is the same good will as that I described a few minutes ago which was taken at six million dollars valuation.

6998 March 9, 1923.
10:30 o'clock, A. M.

WILLIAM HENRY STANLEY, resumed the stand for further direct examination by Mr. Mayer:

Page 94 of the Ernest Reckitt & Company report marked Wrigley Exhibit 92, Bennington 1 refers to Brooklyn moving expense. I will state the facts in connection with that item:

On April 6th or 7th, 1917, the U. S. A. declared war
6999 against Germany. During 1918 and while the United States was still at war, the navy required water front property for storage and shipping purposes. One June 18, 1918, the Navy issued an order to the Bush Terminal Company to vacate certain portions of the Bush Terminal Building. We were located in one of the portions of the Terminal Building which the Navy demanded or commandeered. We received notice from the Bush Terminal Company with a copy of the order issued by the Navy and
(4702) on June 19, 1918, we as tenants of the Bush Terminal Building received commandeer order No. N3255 with a questionnaire attached as to the space we were occupying
7000 and when we could vacate. The Bush Terminal Building is at Brooklyn, New York. It is a water front building with direct railroad connections. We answered the questionnaire on July 9, 1918, and thereupon were pressed by the Navy Department to vacate as promptly as we possibly could. The commandeer order asked for a surrender on or before December 1, 1918, but immediately after the filing of our answers to the questionnaire we were requested to remove as promptly as possible, otherwise they would issue an immediate vacation order. On the 29th of July, 1918, we purchased some property in Kings and Queens County, Brooklyn, in order to enable us to move our plant from the Bush Terminal Building. The other property that we had inspected was so high in rental value and furthermore property was almost impossible to obtain at that time. We were manufacturing the Doublemint gum and other brands of gum in that plant, that is the Bush Terminal plant, during the time to which I am referring.

On the 29th of July, 1918, we purchased the property
7001 and we paid for the same on August 12, 1918. We paid

$400,000, $210,000 in cash, and $190,000 by way of mortgage which we assumed and which we could not purchase. We then immediately proceeded to make contracts for the improvement of the property we had purchased, as it was not in such a state that we could transfer our plant and operate without various alterations. The property which we purchased was in Brooklyn. There were buildings on the property. We vacated the Bush Terminal Building on the 9th of September, 1918, pursuant to the com-
(4703) mandeering order of the United States Government.

We made a claim on the Navy which is still in abeyance.
7002 That claim consists in part of a claim for installation left in the Bush Terminal Building, installation that was specially put in by us in connection with the manufacture of gum and which could not be removed. It was so installed as to be considered a permanent fixture in the building, such as cooling plant, insulation of the walls, wiring and so forth.

The Navy claim furthermore includes a claim made by us for prepaid insurance and in part some of the moving expenses which are included in Wrigley Exhibit 92, Bennington 1. A great part of the claim we have made on
7003 the Navy in connection with commandeer order N3255 issued the 19th of June, 1918, is to cover the difference between what we were then paying the Bush Terminal Building Company and what would have been a fair rental in our opinion in New York.

The answer I just gave was so framed as to point out in answer to the contention of Touche, Niven & Company that the claim set up by the Wm. Wrigley Jr. Company against the Navy does not precisely cover the items which are criticised by Touche, Niven & Company in connection with the Brooklyn moving expense. The items on page 94 to 100 of Wrigley Exhibit 92: Bennington 1, do include some old items that are included in our claim against the Navy and which is still pending, but also give a considerable number of items which are not included in our claim against the Navy.

I have examined these pages, 94 to 100, both inclusive, of Wrigley Exhibit 92, Bennington 1. The statements
7004 therein contained are correct. The dates and items and
(4704) amounts are also correctly shown on those pages, and the nature of those items is correctly shown on those pages.

The purchase price of the new property purchased in Brooklyn was paid on August 12, 1918. The real estate so purchased for $400,000 consisted of buildings and power plant as well as the land. There was a segregation
7005 made of the values of those items.

The Barney Ahlers Construction Company is a construction company at New York that undertook by contract to rehabilitate the buildings on the property we purchased in Kings and Queens County to make them fit for the transfer of our plant from the Bush Terminal Building to the new property. That construction company is an institution entirely separate and apart from the Wm. Wrigley Jr. Company with no connection between the two or its officers.

The American Appraisal Company is a firm of specialists that appraise buildings, land values, property values, machinery values, installation values, and the like. There is no connection whatever between that institution and the Wm. Wrigley Jr. Company or the officers of the institutions.

The amount of the claim which we have filed against the United States Government in connection with this matter is $115,350.90. The gross amount of that claim we make in connection with the Doublemint accounting is $187,-068.79, of which Doublemint's proportion is taken as 15.1778% or $28,392.93. That appears on page 95 of Wrigley Exhibit 92, Bennington 1.

(4705) I will explain briefly how it comes that the amount of
7006 the claim as I used it in accounting here is about $70,000. more than the amount of the claim as I filed it against the Government. Of the amount set up in Wrigley Ex-
7007 hibit 92: Bennington 1 on page 95, that is, $187,068.79, which is the gross amount used, only $51,330.21 is used in our claim against the Navy. There are various items that we have set up and included in the amount of $187,068.79 on page 95 of the Wrigley Exhibit 92: Bennington 1 which are not included in our claim against the Navy.

Then again in the Navy claim there are items included which are not included in the Doublemint accounting either in gross or in part.

I can explain in general the character of the difference between the items included in the claim filed against the Government or not included in the claim filed here and

also the items included in the claim here which were not included in the claim filed against the Government. On pages 95 to 100, inclusive, of Wrigley Exhibit 92: Bennington 1, are shown detail statements of the items we have included in the Doublemint accounting of which Doublemint bears a part. Page 96 shows the purchase of the new building and the amount we paid for it and then added thereto are the amounts we paid for the contracts entered into before September 8, 1918 for addi-
7008 tions and remodeling expense aggregating $313,888.51 as shown on page 96 of Wrigley Exhibit 92; Bennington 1.

Then deducted from the gross amount or cost of the building plus additions and remodeling is the amount that was considered a fair amount by the American Ap-
(4706) praisal Company. That amount is carried as a capital amount on our books, as a capital item, the fair, normal value of the buildings at that time as established by the American Appraisal Company, after the completion
7009 of the remodeling. The difference amounts to $195,-50820. That is the difference between the appraised value of the building and the price we paid for the building plus the additions and changes. Of the $195,508.20 which remains we have capitalized on our books $8,439.41 and treated as an expense of amortization $187,068.79 which is the gross amount we have used in the Doublemint accounting and of which a part is charged to Doublemint. That is the procedure for the figures used in Wrigley Exhibit 92: Bennington 1.

As against this procedure in the claim of the Wm. Wrigley Jr. Company as pending against the Navy Department we have used fundamentally different ideas and established in our claim such items as follows: The rental of our leasehold from the time we were forced to abandon our lease to its expiration date at a fair normal value then being paid in New York, and from that we have deducted our contract price for the lease. We were paying thirty and forty cents a square foot whereas space could not be obtained in New York at that time at less than sixty cents a square foot, and in our claim against the Navy we have established a difference between the sixty cents per square foot and what we were paying of thirty and forty cents per square foot until the expiration date of the lease. We were forced to move and

7010 abandon our leased premises and take other premises and considered it proper to establish in our claim the fact that we had to pay more for the new buildings we (4707) had taken, and the interest on the money expended.

Then in our claim against the Navy we have an item for installations in the leased premises of the Bush Terminal Building that were left when we vacated on September 9, 1918, such as insulated walls, cooling plant that we could not take out that was built in with the building and that we had to leave there, electric wiring we had to leave. That covers an item of $15,246.17. Then another item we establish in our claim against the Navy, which only figures in our books of account and also in Wrigley Exhibit 92: Bennington 1, is an item of prepaid insurance. It only figures as an expense on our books when we paid it whereas when we vacated our premises in the Bush Terminal Building we set up a claim against the Navy for prepaid insurance amounting to $51,330.21. The duplicate of the item as far as the Navy and Wrigley Exhibit 92: Bennington 1 are concerned is an amount of $51,330.21 which is the cost of moving and new material. In our claim against the Navy, for instance, we have not set up any claim for a refund of the difference between the purchase price, the cost of additions and remodeling and the appraised price when it was finished. There really is, therefore, included in Wrigley Exhibit 92: Ben-
7011 nington 1 an amount only of $51,330.21 of our claim against the Navy Department.

We consider the appraisal which was made by the American Appraisal Company a fair appraisal and we have adopted it. It is easily comprehensible that at the time we bought that building the values were very much inflated, and not desiring to carry inflated values on our books, the appraisal was made in the ordinary course of (4708) business. I believe as a matter of fact it is the second appraisal we had made by the American Appraisal Company. It is not the second appraisal by the American
7012 Appraisal Company of the same buildings. We had previously an appraisal made of some other property, the Van Buren Street property which we eventually sold.

We have not carried any other value for the Brooklyn plant than the valuation as fixed by the American Appraisal Company since that appraisal was made, because the difference was written off on our books as shown on

page 96. The normal depreciation is taken on that appraised value since then, of course.

I want to call attention to the fact here that some of these items on page 94 to 100 show dates subsequent to the close of the accounting period, November 12, 1918. The reason for that is that these bills were incurred at New York and on completion of the work were sent to Chicago. There is always a delay between work that is done at New York and the booking and payment in Chicago. The contracts covered, however, by all of these items were made between the 29th of July and the 8th of September, 1918.

In other words, the items of disbursements that appear on the pages named such as, by way of illustration, the items on page 97 of Wrigley Exhibit 92: Bennington 1,
7013 although paid after November, 1918, were in fact contracted for before November, 1918. It is a fact that in some instances the work was actually done before November 12, 1918.

In my answers I have referred indiscriminately to claims against the Government and claims against the
(4709) Navy Department. I did not file more than one claim against the United States Government in connection with this matter. I believe the claim in its present status has been referred to the Claims Committee.

7014 *Cross-Examination by Mr. Aldrich.*

Of the approximately $51,000 that is common in our claim against the Government and also to this claim called "Moving Expenses" made against Doublemint, we did not include the alleged loss on the lease as between the cost of the lease to us per square foot and the value at the time the property was commandeered.

I have stated the items which were common to the gross amount of the claim in this accounting proceeding and the claim against the Government. The principal expense was the moving expense, by which I mean transportation and labor in connection therewith. There has been no attempt to separate the items in the Bennington account. I can get the items that are common to both claims.

(Mr. Mayer then asked Mr. Aldrich: "Mr. Aldrich,

will you admit that part of the decree entered by Judge Carpenter October 14, 1918, referring the case on hearing to Master in Chancery Morrison which authorizes the master to employ chartered accountants and give directions as to the manner, conditions and circumstances under which the examination shall be made was prepared by you and was inserted in the decree at your request?"

(Mr. Aldrich replied: "Yes. In conjunction with Mr. Frank F. Reed. The language to which you refer was in all of the forms of decree submitted by us to opposing counsel, including the final decree as entered. We were
(4710) unable to agree as to the form of decree, they having
7016 submitted to us other forms. We finally met before Judge Carpenter to settle the terms of the decree and he adopted the decree submitted by Mr. Reed and myself, which decree as entered contained the language pertaining to the appointment of chartered accountants which had originated and been used by us in all of the forms exchanged between the counsel."

Subsequently, at the May 2, 1923, 2 O'clock session, this statement by Mr. Aldrich was stricken from the record by the Master over the objection of Mr. Mayer (see p. 7557 of Master's Record).

(4711) (Mr. Mayer then asked Mr. Aldrich whether he had not sent to the Wrigley Company during the pendency of the litigation, an attorney's lien notice reading as follows:

* * * Nos. 30,563 and 488 * * *

7017 NOTICE OF ATTORNEY'S LIEN.

To Wm. Wrigley Jr. Company:

You are hereby notified that in the above entitled causes now pending and undetermined in the court indicated I claim a lien for services rendered and to be rendered to the L. P. Larson Jr. Company and L. P. Larson Jr. under an agreement upon any judgment or decree entered therein, or any money or property recovered by said L. P. Larson Jr. Company or L. P. Larson Jr. personally, or any sums or property that may be paid upon settlement of said litigations to either said L. P. Larson Jr. Company or L. P. Larson Jr. personally to the extent

of one-third of such recovery or payment; of which fact you will take due notice.

CHARLES H. ALDRICH,
Solicitor for L. P. Larson Jr. Company and L. P. Larson Jr."

Mr. Aldrich objected on the ground of immateriality, irrelevancy and incompetency and its having nothing to
(4712) do with the issues pending before the Master. Mr. Mayer urged that it was material to the Court of Chan-
7018 cery to know who was interested in the litigation; as to whether the Larson Company was entitled to recover a decree in its name, and that as Mr. Aldrich was taking an active part in the case, not merely as counsel, his interest and the quantum of his interest should appear.

7019 Mr. Mayer also said that the said evidence was material on the question of Federal income taxes, as the Wrigley Company had a right on the record to show how much Federal income tax the Larson Company would have to pay if there were profits payable to it.

The master sustained the objection.

Mr. Mayer then offered to prove by Mr. Aldrich the facts he (Mr. Mayer) had stated in his question, and also that Mr. Aldrich still had at least a one-third interest in the result of the litigation, as indicated in the foregoing notice of attorney's lien. Mr. Aldrich objected, and the master sustained the objection.)

(4713) March 9, 1923, 2:00 P. M.

7020 L. P. LARSON, JR., called as a witness on behalf of the Wm. Wrigley Jr. Company, having been theretofore sworn, testified on direct examination by Mr. Mayer:

I am President and principal stockholder of the L. P. Larson Jr. Company. I am in active control of its affairs, and have been from the time the company was or-
7021 ganized. The L. P. Larson Company was organized in 1911. That company has been engaged in the business of manufacturing gum continuously since then, and still is.

At the present time the L. P. Larson Company manufactures nothing but gum. It did manufacture mints. It discontinued manufacturing mints in 1915. It has been

our custom to wrap our gum in packages of five sticks each.

7022 (Mr. Mayer asked the witness whether the Larson Company used the Redington, Condon and Bander machines for wrapping its gum. Mr. Aldrich objected. The objection was sustained.

Mr. Mayer offered to prove by the witness that the L. P. Larson Company did use said machines. Mr. Aldrich objected. The objection was sustained.

Mr. Mayer then asked the witness what wrapping machines he used in his business during the period from July 28, 1914, to November 12, 1918. An objection was sustained.

Mr. Mayer offered to prove that during the period named the L. P. Larson Jr. Company used in its business for wrapping gum Redington, Condon and Bander machines. An objection was sustained to the offer.)

(4714) I heard the testimony given by Nelson L. Buck in
7023 this case regarding the use of the Wm. Wrigley Jr. Company of wrapping machines known as the Price K and Price KL and Price KLM types.

(Mr. Mayer asked the witness whether the L. P. Larson Jr. Company used any of those three named types of machines in its business during the accounting period. An objection was sustained.

(Mr. Mayer then offered to prove by the witness that no such machines were used by his company during the period named. An objection was sustained.

7024 (Mr. Mayer then asked the witness whether he knew of anybody that used either the Price K or KL or KLM types wrapping machines during the times stated other than the Wm. Wrigley Jr. Company. An objection was sustained. Mr. Mayer offered to prove by the witness that he did not so do. An objection was sustained.

(Mr. Mayer then asked the witness whether it was not a fact so far as he knew machines of the three types mentioned, the Price K, KL and KLM were not available to the Larson Company or to the public for wrapping gum during the accounting period. An objection was sustained. Mr. Mayer offered to prove by the witness that his answer would be that such machines were not available to his company or to the public during the time named. An objection was sustained.

7025 (Mr. Mayer then asked the witness whether it was not

a fact that the L. P. Larson Jr. Company was using the Berger wrapping machine during the accounting period and that it was not satisfactory to his company. An ob-
(4715) jection was sustained. Mr. Mayer offered to prove the witness' answer would be in the affirmative if allowed to testify. An objection was sustained.

(Mr. Mayer then asked the witness how much it cost the L. P. Larson Jr. Company during the accounting pe-
7026 riod to wrap its gum by means of the Redington, Condon and Bander wrapping machines. An objection was sustained. Mr. Mayer offered to prove by the witness that the cost was at least as large as that which the witness, Nelson L. Buck, assumed and testified it would have been during the accounting period. An objection was sustained.

(Mr. Mayer asked the witness to state what kind of machines the L. P. Larson Jr. Company used at any time for sheeting, scoring and trimming gum. An objection was sustained.

(Mr. Mayer asked the witness to state what kind of scoring, sheeting and trimming machines the L. P. Larson Jr. Company used from the time of its incorporation up to July 28, 1914. An objection was sustained.

7027 (Mr. Mayer asked the witness to state what kind of scoring, sheeting and trimming machines the L. P. Larson Jr. Company used during the accounting perid. An objection was sustained.

(Mr. Mayer asked the witness to state what kind of scoring, trimming and sheeting machines the L. P. Larson Jr. Company has been using since the accounting period. An objection was sustained. Mr. Mayer then made the following offer of proof:

"I offer to prove by the witness that his company at no time used scoring, sheeting and trimming machines of the type described by the witness, Nelson L. Buck,
(4716) and which he testified were used by the Wm. Wrigley Jr. Company since its incorporation in 1911 and that the L. P. Larson Jr. Company did use scoring, sheeting and trimming machines of the type which Mr. Buck testified were used by concerns other than the Wm. Wrigley Jr. Company and that they were no more efficient than those used by the Zeno Manufacturing Company prior to its use of what is described as the Dellenbarger, Barbieri and Price sheeting, scoring and trimming machines."

7028 (An objection was sustained. The master stated that he would give the Wrigley Company the same benefit of the offer as though the offer had been broken up into all possible parts, and as though objections thereto had been made and sustained.

(Mr. Mayer asked the witness to state what the net profits of the L. P. Larson Jr. Company were in the year 1917 and also in the year 1918. Mr. Aldrich objected. Mr. Mayer then stated the object was to show by the witness the amount of income and excess profit taxes his company would have had to pay if his company had received in 1917 and 1918 the amount of the profits which the Larson Company is now claiming were earned by the Wrigley Company in those years. The Master thereupon sustained the objection.

(Mr. Mayer asked the witness to state what the capitalization of the L. P. Larson Jr. Company was during
7029 that period, and also what its assets and liabilities were. An objection was sustained.

(Mr. Mayer asked the witness to state what the amount of the invested capital was in the L. P. Larson Jr. Company's business in 1917. An objection was sustained. Mr. Mayer asked the same question as to 1918. An objection was sustained.

(Mr. Mayer asked the witness to state what the amount of the good will and patents and trademarks
(4717) were separately during each of those two years, 1917 and 1918. An objection was sustained.

(Mr. Mayer then asked the witness to state the amount of the capital stock of the L. P. Larson Jr. Company in 1917 and 1918 separately. An objection was sustained.

(Mr. Mayer asked the witness to state the value of any patents that the L. P. Larson Jr. Company owned in 1917 and 1918. An objection was sustained.

7030 (Mr. Mayer asked the witness at what amounts, if any, the patents of the L. P. Larson Jr. Company were carried on the books of the said company in 1917 and 1918. An objection was sustained.

(Mr. Mayer asked the witness to state the net income of the L. P. Larson Jr. Company in 1917. An objection was sustained. Mr. Mayer asked the same question as to 1918. An objection was sustained. Mr. Mayer asked the witness to state what amount was deducted by the

L. P. Larson Jr. Company in 1917 for its corporate income tax. An objection was sustained. Mr. Mayer asked the same question as to 1918. An objection was sustained.

(Mr. Mayer asked the witness to state the amount of the war profits tax of the L. P. Larson Jr. Company in 1918. An objection was sustained.

7031 (The Master then asked Mr. Mayer whether he had not put enough questions along that line. Mr. Mayer said he wanted the record to show that the master had forbidden him from putting into the record such information which would show just what the L. P. Larson Jr. Company would have had to pay. The master said that was the intention of his ruling.

(Mr. Mayer then asked the witness what was the amount of the L. P. Larson Jr. Company's war profits tax in 1918. An objection was sustained. Mr. Mayer (4718) then made the following offer of proof: "I offer to prove by the witness that if he had been permitted to answer the preceding questions to which objections have been made and sustained that it would have disclosed the fact that the L. P. Larson Jr. Company would have been in the 60% bracket, peak or class and would have had to pay 60% to the United States Government as a tax on the amounts which the Wm. Wrigley Jr. Company has returned in its filed account as profits in 1917 and 1918 before deducting any income or excess profits 7032 taxes therefrom, and that that 60% would have been in addition to and over and above the normal federal corporate tax for those two years which L. P. Larson Jr. Company would have had to pay. An objection was sustained.

(The master said that the Wrigley Company might have the same benefit of said offer as though Mr. Mayer had made it split up into all possible parts and objections had been made thereto and the objections sustained.

(Mr. Mayer then stated that he repeated his last offer of proof, with the addition that he would also offer to prove by the witness the state of facts referred to in his last offer, with the proviso that those would be the facts also even if the Larson Company were required to pay any part of its recovery to its counsel, Mr. Aldrich, under the contingent arrangement which the Wrigley

Company had offered to prove. An objection was sustained.

7033 (Mr. Mayer then asked the witness to produce a copy of the federal tax return of the L. P. Larson Jr. Company for the year 1917. Mr. Aldrich objected. The master reserved his ruling.

(Mr. Mayer then asked the witness to produce the federal income tax return of the L. P. Larson Jr. Com-
(4719) pany for the year 1918. Mr. Aldrich objected. The master reserved his ruling.

7034 (Mr. Mayer asked the witness to produce the income tax return of the L. P. Larson Jr. Company for the years 1914, 1915 and 1916. Mr. Aldrich objected. The master reserved his ruling.)

The witness continued:

I have testified that the L. P. Larson Jr. Company's gum was wrapped up and sold in packages of five sticks each. It is true of the sales of our Wintermint gum throughout the entire accounting period. The L. P. Larson Jr. Company did not use any counterband coupon wrappers in wrapping any of the Wintermint gum that it sold at any time during the accounting period. By counterband coupon wrapper or counterband wrapper coupon I mean the outside wrapper that held together five sticks of Wintermint gum and which would be redeemable for anything of value.

The L. P. Larson Jr. Company did not wrap any of the
7035 Wintermint gum which it sold at any time during the accounting period in any coupons. I don't remember of any coupons being put on any of the Wintermint gum which was sold by the L. P. Larson Jr. Company at any time during the accounting period.

WILLIAM HENRY STANLEY resumed the stand for further direct examination by Mr. Lane:

I have here the information which Mr. Aldrich asked me concerning the Brooklyn moving expense.

7036 I have here a list of the foreign sales from January 1, 1911, to July 28, 1914, made by the Wm. Wrigley Jr.
(4720) Company of chewing gum by years and by countries.

7036 (Mr. Lane then offered the said list in evidence. Mr. Aldrich objected to the offer and the objection was sustained. Mr. Lane then offered to prove that the figures

shown on the statement just offered correctly represented the sales in foreign countries during the periods mentioned of the Wrigley gum marked with the name of the Wm. Wrigley Jr. Company. An objection was sustained to the offer.)

7037 (Said document was marked "Wrigley Exhibit 95, offered not admitted." It was headed "Foreign sales from January 1, 1911, to July 28, 1914, inclusive (by dollars)" Said exhibit showed separately by years the amount of sales in 1911, 1912, 1913 and from January 1 to July 28, 1914 in the following countries: Alaska, Australia, Asia Minor, Bermuda, Bolivia, Br. Hond., Br. W. Indies, Chile, China, Costa Rica, Cuba, Dom. Rep., England, France, Germany, Greece, Hawaii, Holland, Honduras, Hungary, Italy, Japan, Mexico, Newfoundland, New Zealand, Panama, Philippine Is., Porto Rico, Roumania, Siam, So. Africa, Spain, Tahiti.

Cross-Examination by Mr. Aldrich.

The document which I brought here this afternoon consisting of four pages entitled "Hauling stock, equipment, and so forth, from old to new plant" is the document with reference to Brooklyn moving expenses which Mr. Aldrich requested of me this morning in regard to expenses itemized and set forth thereon.

7038 (Mr. Aldrich offered the said document in evidence. It was received in evidence and marked Larson Exhibit 173.
(4721) Said exhibit itemizes disbursements made in 1918 and
7038 1919 showing dates, amounts and names of parties to whom payments were made and shows an aggregate payment of $51,330.21, part of which was expended during the accounting period, payments being for such items as transportation, dismantling machinery, equipment, and fixtures at old plant and reinstalling same at new plant, and various installation expenses.

(4722) L. P. LARSON JR. resumed the stand for further
7038 direct examination by Mr. Mayer:

(Mr. Mayer requested the witness to produce a statement showing the dates on which he ordered any individual stick wrappers or any counterband wrappers from Charles G. Buck in 1913 and 1914 for use on Wintermint

gum, such statement also to show the quantities ordered and the amounts paid Buck therefor and whether they were single stick bands or counterbands and also the number of each that were delivered by Buck to the Larson Company and the dates of delivery. An objection was overruled.)

7039 I cannot tell how many counterband wrappers I received from Charles G. Buck for Wintermint gum in 1913 and 1914 without looking up the records.

(Mr. Mayer then asked the witness to state all of the ingredients which the L. P. Larson Jr. Company had used in the manufacturing of its Wintermint gum from the time it first manufactured it up to and until the end

7040 of the accounting period. An objection was sustained. Mr. Mayer then offered to prove by the witness that during the period stated in the question the L. P. Larson Jr. Company inserted impurities in their gum which were in violation of the Pure Food Act, and by that he (Mr. Mayer) meant that were deleterious, and therefore he intended to claim as a matter of law that they were not entitled to any accounting at all, or, rather, to any recovery under any accounting. An objection was sustained to the offer.

(Mr. Mayer asked the witness whether the L. P. Larson Jr. Company used any oil of cassia in the manufacture of Wintermint gum at any time from the time that

(4723) it first put it out up to the end of the accounting period. An objection was sustained.

7041 (Mr. Mayer then asked the witness whether the L. P. Larson Jr. Company used any saccharine during any of the time stated in the manufacture of its Wintermint gum. An objection was sustained.

(Mr. Mayer asked the witness whether the L. P. Larson Jr. Company used any mineral fillers or substitutes for sugar during any of the time stated. An objection was sustained.

(Mr. Mayer then asked the witness whether the L. P. Larson Jr. Company used any chrome yellow or aniline dyes such as alizarine in the manufacture of Wintermint gum during any of the time stated. An objection was sustained.

7042 (Mr. Mayer then asked the witness whether the L. P. Larson Jr. Company used any decomposed silk in the manufacture of Wintermint gum during any of the time

stated. An objection was sustained. Mr. Mayer then offered to prove by the witness that during the time stated his company used in the manufacture of Wintermint gum some one or more of the materials mentioned in the questions put to him. An objection to the offer was sustained.

(Mr. Mayer then asked the witness what flavor is the L. P. Larson Jr. Company's Wintermint gum. An objection was sustained. Mr. Mayer then offered to prove
7043 by the witness than the L. P. Larson Jr. Company's Wintermint gum has at all times from the time when it was first put upon the market continuously up to the time of the accounting period been a wintergreen flavor. An objection was sustained.

(Mr. Mayer then asked the witness whether the L. P. Larson Jr. Company used any of the ingredient known as
(4724) Pepsin in the manufacture of its Wintermint gum at any time. An objection was sustained. Mr. Mayer offered to prove by the witness that no pepsin was used by the L. P. Larson Jr. Company in the manufacture of its Wintermint gum at any time. An objection was sustained to the offer.

(Mr. Mayer asked the witness whether the L. P. Larson Jr. Company used oil of birch in the manufacture of Wintermint gum at any time from the time it first put out Wintermint gum up to the end of the accounting period. An objection was sustained. Mr. Mayer offered
7044 to prove by the witness that if the witness were permitted to answer he would say yes to the question. An objection was sustained to the offer.

(Mr. Mayer then asked the witness whether the L. P. Larson Jr. Company used any synthetic product as a substitute for flavoring its Wintermint gum during the accounting period or at any time theretofore. An objection was sustained.

(Mr. Mayer offered to prove the use by the L. P. Larson Jr. Company of some one or more of the ingredients named other than pepsin during the accounting period and at all times theretofore in connection with Wintermint gum. An objection was sustained to the offer. Mr. Mayer then offered to prove by the witness that the L. P. Larson Jr. Company used no pepsin at any time prior to the accounting period in connection with Wintermint gum. An objection was sustained.)

(4725) March 12, 1923, 10:30 A. M.

7046 L. P. LARSON JR. resumed the stand for further direct examination by Mr. Mayer:

I have not produced as I was requested at the last session a copy of the L. P. Larson Jr. Company's federal tax returns to the United States Government for the years 1914, 1915, 1916, 1917 and 1918. I have not brought here copies of any of those returns.

7047 (Mr. Mayer then asked the master to direct the witness to produce them. Mr. Aldrich stated the witness had not brought such returns to the hearing because he was advised by Mr. Aldrich that the Wrigley Company had no right to such information.)

March 12, 1923, 2:00 P. M.

7048-50 (The master ruled that copies of the Federal income and excess profits tax returns and testimony regarding the facts upon which those returns were based which Mr. Mayer had asked the witness to produce were competent evidence in the case, but that he would not direct the witness to produce such returns and give such testimony because in his opinion it was against public policy to require a party against his will to produce that information. In other words, the master overruled the Larson Company's objection to this line of testimony so far as the same was based on any other objection than the ground of public policy.

7051 (Mr. Mayer then requested the master to appoint Mr. Hall or any other auditor whom he might consider competent to examine the books and records of the L. P. Larson Jr. Company so as to furnish to the master for this record
(4726) all the information necessary to enable the master and the courts to determine how much the L. P. Larson Jr. Company would have had to pay in 1914 to 1918 annually, both inclusive, on what they claimed to be entitled from the Wm. Wrigley Jr. Company in this accounting. That in other words, the Wrigley Company desired of record such information as would enable the court to properly determine the question of a deduction by the Wm. Wrigley Jr. Company of corporation income and excess profits, war profits and all other United States Government taxes

that were in force or collectible at any time during the accounting period. An objection was sustained.

(Mr. Mayer repeated his last offer, with the further statement that the Wrigley Company was willing to advance the cost of such an examination in the first instance, the court to finally determine who should ultimately pay the expense. An objection was sustained.

7052 (Mr. Mayer then repeated the next to the last offer, with the further offer that the Wrigley Company should pay the expense of such an examination. An objection was sustained.

(Mr. Mayer then asked the master to change his rulings made the prior week when Mr. Mayer was asked Mr. Larson questions calculated to procure answers which would enable the court to determine the amount of corporation, excise, income, war profits taxes which the L. P. Larson Jr. Company might have been required to pay on such, if any, portion of the profits of the Wm. Wrigley Jr. Company as it claims or as may be decreed in this case. Mr. Mayer said he made said motion in view of the objection of Mr. Aldrich to the witness' producing copies of the tax returns and in view of the witness Larson re-
(4727) fusing so to do. The master said he declined to change said ruling for the reasons he gave a few minutes before for sustaining the objections to those questions. The
7053 master said that the Wrigley Company might have the same benefit on the record as though Mr. Mayer had now repeated each of those questions and as though each of them were objected to by Mr. Aldrich, and as though the master had sustained each of those objections.

(Mr. Lane offered in evidence carbon copy of the letter of July 1, 1921, from the master to Charles H. Aldrich, Frank F. Reed, Isaac H. Mayer and Parkinson & Lane, and the original letter of Mr. Charles H. Aldrich, dated July 5, 1921, to C. B. Morrison. Mr. Aldrich said there was no objection.)

7053-55 The two letters last referred to are as follows:

"July 1, 1921.

Charles H. Aldrich, Esq.,
Frank F. Reed, Esq.,
Isaac H. Mayer, Esq.,
Parkinson & Lane.
Gentlemen:

In re Wrigley v. *Larson.*

Mr. James Hall, the impartial accountant appointed by the master pursuant to the order of court, called to see me a few days ago relating to the payment of the last bill of Marwick, Mitchell, Peat & Company for the services of Gledhill, one of the accountants who worked on the Wrigley Company books. Mr. Aldrich informed me some time ago that he did not think the Larson Company should pay for services covered by this bill, I believe seventy days. I told Mr. Hall what Mr. Aldrich had said to me and that I would notify the attorneys on both sides with a view to having a conference on the subject at which Mr. Hall might be present. If it will be agreeable to you, I shall be glad to take it up at two o'clock on Monday, July 11th. If this date is not agreeable, please let me know.

Yours truly,
Master."

(4728) "Law Office
Charles H. Aldrich
209 South LaSalle Street
Chicago

Chicago, July 5, 1921.

C. B. Morrison, Esq.,
652 Federal Bldg.,
Chicago, Ill.,
Dear Sir:—

I have yours of July 1st and note contents. I had expected to be out of the city on the 12th, but will remain for the conference if you deem it important.

I wish you to recall, however, the fact that when this bill for seventy or more days additional services of Mr. Gledhill was received from you, after the exposure which is now a part of the record had been made, I said that I was under great embarrassment and felt unwilling to
7055 submit such a bill to the Larson Company for payment.

You stated to me that you had felt embarrassed by the situation and had said to Miss Franklin that you hated to send the bill to me. You asked me not to submit the bill to Mr. Larson until you could have a conference with Mr. Hall, and a few days later you advised me over the 'phone that I was not to submit the bill and that it could be deemed withdrawn. I assume that you did this at Mr. Hall's instance and request.

You mentioned the fact that Mr. Hall had expressed the wish that the Larson Company's indebtedness could be paid, on one occasion when I was in with Mr. Pratt, and I stated to you that so far as I knew there was no indebtedness that was unpaid, that you had sent a bill, as you would recall, for the copying of Gledhill's preliminary report which I had endorsed for payment and, as I assumed, it had been paid. I asked you if it had not been, and you said you did not know. You then agreed to ascertain what it was, and this communication of July 1st is the first that I have heard about it. The other bill, as I am advised, was paid in due course.

I see no occasion to call in Messrs. Mayer & Lane about this matter, although as I have indicated, I will meet you at the time named by you. Our position is that the retention of Mr. Gledhill for seventy days after we had every reason to believe from Mr. Hall's statement that only a day or two of work remained to be done by Mr. Gledhill, is wholly unwarranted. It was my understanding from the expressions made by you, and even the attitude of opposing counsel, that my statement that Mr. Gledhill's usefulness had ceased, in view of the disclosures made, was acquiesced in by all parties. The information that I have received with reference to Mr. Gledhill since the hearing in court in which he was called to explain his conduct, confirms me in my opinion as then expressed.

Yours very truly,

CHA-L CHARLES H. ALDRICH"

(4729) L. P. LARSON JR. resumed the stand for further
7056 direct examination by Mr. Mayer:

I have not got with me statements which I was asked lask week by Mr. Mayer to produce showing the dates when my Company gave orders to Charles G. Buck, the amount of the orders and what was ordered. I have not

prepared such a statement; as yet I have not got the information and there is no reason for it except I have not had the time to go into it. I have gone after the information but I have not had the records before me and I would not want to give any answer as to the exact dates before I had it before me. I may be able to have that information here tomorrow morning. Mr. Mayer then asked the witness to do that and the witness continued:

It was never any part of the case before the Master and I am making the best effort I can to get it here as early
7057 as possible. Mr. Mayer then asked the witness to have the information here by the following morning as he cannot close his examination until he has it.

(4730) (Mr. Mayer then stated to the witness that he (Mr.
7057 Mayer) was advised that in the summer of 1914 the L. P. Larson Jr. Company, by the witness as president and one E. J. Gutgsell as secretary, entered into a contract with Thomas P. Tivy whereby the L. P. Larson Jr. Company agreed to appoint Tivy the L. P. Larson Jr. Company's sole and exclusive agent for the sale of all of the L. P. Larson Jr. Company's products for a period of five years from that time and Mr. Mayer then asked the witness what the fact was in regard to such contract. An objection by Mr. Aldrich was sustained.

(Mr. Mayer then asked the witness whether it was not a
7058 fact that in the same agreement the L. P. Larson Jr. Company agreed upon the price which Tivy was to pay the L. P. Larson Jr. Company for the different products manufactured by it. An objection by Mr. Aldrich was sustained.

Mr. Mayer then asked the witness whether it was not a fact that under the contract referred to in the preceding questions the L. P. Larson Jr. Company agreed not to sell or cause to be sold any of its products without the consent of Tivy. An objection by Mr. Aldrich was sustained.

(4731) (Mr. Mayer then asked the witness whether it was not a fact that in and by the same agreement the L. P. Larson Jr. Company agreed to turn over to Tivy immediately upon receipt thereof any and all orders which the L. P. Larson Jr. Company migh receive. An objection by Mr. Aldrich was sustained.

(Mr. Mayer then asked the witness whether it was not a fact that in and by that agreement Tivy agreed to pay

the L. P. Larson Jr. Company for all chewing gum received by him from the L. P. Larson Jr. Company at prices therein stated. An objection by Mr. Aldrich was sustained.

7059 (Mr. Mayer then asked the witness whether it was not a fact that those prices were from twenty dollars to thirty dollars per case for chewing gum, each case containing two thousand packages of gum, each package containing five sticks, and each stick to be wrapped, and every five sticks to be banded together. An objection by Mr. Aldrich was sustained.

(Mr. Mayer then asked the witness whether it was not a fact that in the contract referred to the L. P. Larson Jr. Company kept for itself only the right to sell its products, or any of them, during the five years stated, within Cook County, Illinois. An objection by Mr. Aldrich was sustained.

(Mr. Mayer then asked the witness whether it was not a fact that at the time the Tivy contract referred to was made, the L. P. Larson Jr. Company had outstanding in full force a contract made by it with H. S. Vandervoort wherein Vandervoort had the exclusive right to sell any and all of the products of the L. P. Larson Jr. Company in Cook County. An objection by Mr. Aldrich was sustained.

(Mr. Mayer then asked the witness whether it was not
(4732) a fact that the L. P. Larson Jr. Company had an agree-
7060 ment with Tivy of the kind and made at the time referred to in Mr. Mayer's previous questions, which also provided that upon the expiration of the L. P. Larson Jr. Company's contract with Vandervoort of the type referred to in one of Mr. Mayer's preceding questions, that the L. P. Larson Jr. Company would not thereafter within said five years period sell any of its products anywhere, even including Cook County, Illinois. An objection by Mr. Aldrich was sustained.

(Mr. Mayer than asked the witness whether it was not a fact that the agreement between the L. P. Larson Jr. Company and Tivy to which Mr. Mayer had referred, also provided that Tivy was to purchase the products of the L. P. Larson Jr. Company amounting, at the designated prices, to $89,700. during the first year of the contract, $119,600. in the second year of the contract, $143,000. during the third year of the contract, $171,600. during the

fourth year of the contract, and $205,920. during the fifth year of the contract. An objection by Mr. Aldrich was sustained.

(Mr. Mayer then offered to prove by the witness that the witness would have answered each of the preceding questions regarding the contract between L. P. Larson Jr. Company and Thomas P. Tivy in the affirma-
7061 tive, if the objections had not been sustained or if the master had permitted the witness to answer. An objection by Mr. Aldrich to the offer was sustained.

(Mr. Mayer then asked the witness whether it was not a fact that in the month of October, 1914, there was in force between the L. P. Larson Jr. Company and Thomas P. Tivy a contract whereby the company agreed to sell none of its products to any one outside of Cook County,
(4733) Illinois, for a period of five years and to sell its entire product and output during that period to Tivy at prices ranging from twenty cents to thirty cents per box of gum consisting of twenty packages of five sticks each, and in which the L. P. Larson Jr. Company agreed that Tivy could assign the contract to any corporation,whether then already organized or that might be thereafter organized in Illinois. An objection by Mr. Aldrich was sustained. Mr. Mayer then offered to prove by the witness that if permitted by the master to answer the last question, he
7062 would have answerd it in the affirmative, and that he also would have answered all the preceding questions to which objections were sustained pertaining to this subject, in the affirmative. An objection by Mr. Aldrich to the offer was sustained.

(Mr. Mayer then asked the witness whether it was not a fact that in October, 1914, there was in force a contract between the L. P. Larson Jr. Company and one H. S. Vandervoort, whereby the Larson Company had agreed that Vandervoort should have the exclusive right to sell any and all the products of the L. P. Larson Jr. Company in Cook County. An objection by Mr. Aldrich was sustained. Mr. Mayer then offered to prove an affirmative answer from the witness if he had been permitted to answer. An objection by Mr. Aldrich to the offer was sustained.

(Mr. Mayer then asked the witness whether it was not a fact that in October, 1914, there was in force between the L. P. Larson Jr. Company and Thomas P. Tivy a con-

tract by the terms of which the L. P. Larson Jr. Company agreed to sell and Tivy agreed to buy the entire
7063 output of the L. P. Larson Company for the following five years except only during the lifetime of a then existing contract with Vandervoort which covered Cook county, Illinois, and that the price was to be from twenty cents to thirty cents a box of L. P. Larson Jr. Company's gum, each box consisting of twenty packages of five sticks each, and that the total amount to be purchased by Tivy from the L. P. Larson Jr. Company during the five year period referred to was as follows: $89,700. during the first year; $119,600. during the second year; $143,000. during the third year; $171,600. during the fourth year, and $205,920. during the fifth year of the contract between the L. P. Larson Jr. Company and Tivy. An objection by Mr. Aldrich was sustained. Mr. Mayer offered to prove by the witness that, if permitted to answer, he would have answered the last question in the affirmative. An objection by Mr. Aldrich to the offer was sustained.

(Mr. Mayer then asked the witness to produce any and all written contracts, if any, which the L. P. Larson Jr. Company entered into with Thomas P. Tivy covering or pertaining to the sale of the L. P. Larson Jr. Company's
7064 gum, or any of its products, to Tivy during any part or all of the accounting period. An objection by Mr. Aldrich was sustained.

(Mr. Mayer then asked the witness to state whether any contract was entered into between the L. P. Larson Jr. Company and Tivy at any time in 1914, as above outlined in Mr. Mayer's previous questions, for the sale by the L. P. Larson Jr. Company to Tivy of its output, regardless of whether such contract was in writing or oral. An objection by Mr. Aldrich was sustained. Mr. Mayer then offered to prove by the witness that if permitted to answer he would have answered in the affirmative. An objection by Mr. Aldrich was sustained to the offer.

(Mr. Mayer then asked the witness whether it was not a
(4735) fact that in the month of November, 1914, there was outstanding a contract between the L. P. Larson Jr. Company and Thomas P. Tivy and A. S. Tivy wherein the L. P. Larson Jr. Company agreed with Thomas P. Tivy to sell and deliver to him the entire output of the factory of the L. P. Larson Jr. Company consisting of chewing gum
7065 and that said contract was to remain in full force and

effect for the period of fifty years, and whereby also there was given to Thomas P. Tivy the exclusive right to sell all chewing gum and products of the L. P. Larson Jr. Company, everywhere. An objection by Mr. Aldrich was sustained.

(Mr. Mayer then asked the witness whether it was not a fact that such a contract as described in Mr. Mayer's last question was transferred to a corporation in payment of twenty thousand dollars face value of its capital stock, with the knowledge and consent of the witness, in November, 1914. An objection by Mr. Aldrich was sustained. Mr. Mayer then offered to prove that if the witness had been permitted to answer, he would have replied to both the preceding questions in the affirmative. The master then stated that the Wrigley Company might have the same benefit of said offer as though it had been made in parcels. An objection by Mr. Aldrich was sustained to the offer.)

(4736) EDWARD W. ECKERLY resumed the stand for
7066 further direct examination by Mr. Lane.

The regular retail selling price of Doublemint during the entire accounting period was five cents a package.
7067 That was true of our other brands of Wrigley's gum during the accounting period. That was the price at which the various brands of Wrigley's gum was sold during the accounting period. Doublemint and Spearmint and the other principal brands of the Wrigley Company sold at the same price during the accounting period.
7068 All the gum accounted for except that wrapped in the packages with counterbands identical with Wrigley's Exhibits 79 to 90 had printed on their outer counterband wrapper containing five sticks the words "Made by the manufacturers of the famous Wrigley's Spearmint. Wm. Wrigley Jr. Co. Chicago, New York", and so forth, and arranged and displayed in the same manner as on the
7069 counterbands, Wrigley's Exhibits 72 to 78, both inclusive.

We sold the various brands of chewing gum including among them Spearmint, Doublemint and Juicy Fruit, during a part or all of the accounting period to the United Cigar Stores Company, Incorporated.

Mr. Lane then asked the witness how the proportion of

sales of Doublemint to the United Cigars Stores Company compared to the total sales of all the Wrigley gum products to the United Cigar Stores Company. Mr. Ald-
7070 rich objected; the objection was sustained.

Counsel for the Wrigley Company said that the Wrigley Company intended to introduce proof proving sales by the Wrigley Company to the United Cigar Stores Company and sales by it at retail in many hundreds of cigar stores, with respect to coupons and the demand for coupons, and that the coupons were actually handed over to everybody; and that the evidence had to do with the proportion of redemptions of Doublemint coupons as compared with the general redemptions of all coupons on all kinds of gum. The master sustained Mr. Aldrich's objection.

Mr. Lane then offered to prove by the witness that the sales of Doublemint gum to the United Cigar Stores Company, Incorporated, during the accounting period was from 20 to 25 per cent of the Wrigley Company's total sales of gum to that company during the accounting period. Mr. Aldrich objected. The objection was sustained.

Mr. Lane said that the testimony was also offered as a basis for the testimony of subsequent witnesses who would testify as to the purchases from the Wrigley Company of gum in substantially those proportions, and that
7071 their sales through retail stores to the consumers of this gum was in substantially the same proportions. Mr. Aldrich objected.

Mr. Lane then stated to the witness that the witness had produced counterband labels used on Wrigley's Doublemint gum in the record, and in view of the fact that some of the boxes which were offered as original exhibits were lost he would ask the witness to produce one of the boxes in which Doublemint gum was boxed for shipment during the accounting period and the box labels used thereon during the accounting period. Mr. Aldrich objected. The objection was sustained.

(4738) March 13, 1923. 10:30 o'clock a. m.

7073 The question arose as to the right of the Wrigley Company to introduce testimony concerning the printed matter on the boxes containing the infringing packages of Doublemint gum sold in this and foreign countries, which

printed matter, it is claimed by the Wrigley Company, gave information to purchasers that the Doublemint gum was made by the Wm. Wrigley Jr. Company and not by L. P. Larson Jr. Company; and the question also arose as to the right of the Wm. Wrigley Jr. Company to prove by competent witnesses having knowledge of the facts, and by other evidence, that purchasers of Doublemint gum, immediate, intermediate and ultimate, throughout the entire world bought Wrigley's Doublemint gum during the entire accounting period and every portion thereof because they wanted that product as the product of the Wm. Wrigley Jr. Company and that they were not deceived in making these purchases of Wrigley's Doublemint gum in any manner or that they did not buy the same either for or as the product of the L. P. Larson Jr. Company, the Wrigley Company insisting that none of
7074 of these matters has been excluded directly or indirectly by the opinions of the Court of Appeals in this case.

(An argument was then commenced which lasted for several days.)

7075 March 15, 1923. 2:30 o'clock p. m.

(The argument by counsel for the Wrigley Company having been completed at the close of the forenoon session, the master declined to receive testimony upon the questions which had arisen, as before stated, at the March
(4739) 13, 1923, session as to the right of the Wrigley Com-
7076 pany to introduce certain evidence, on the ground that the master understood he was precluded from so doing by the second decision of the Circuit Court of Appeals.)

EDWARD W. ECKERLY resumed the stand for further direct examination by Mr. Lane:

Mr. Lane asked Mr. Eckerly to produce one of the boxes and a sample of each label used thereon in which Doublemint gum was boxed for shipment during the accounting period, and explain just what it was that he was producing so that it might be marked for identification in this case. Mr. Aldrich objected. The objection was sustained.

7077 Mr. Lane then made the following offer of proof: "We offer to prove by this witness that he will testify that the

box which he has produced is one of the boxes containing the labels on the inside of the cover thereof, on the outside cover, on the ends and sides of the box, that printed matter which appeared on the box containing Wrigley's Doublemint gum wrapped in outside counterbands containing five individual sticks of gum like those appearing in Wrigley Exhibits 72 to 90, both inclusive, and that this box is marked Wrigley Exhibit 96, and that the label or printed mark, Wrigley Exhibit 97, was used on the inside cover of each of such boxes of Wrigley's Doublemint gum during the accounting period, and the label or printed mark, Wrigley Exhibit 98, was used on the outside cover and on the ends and sides of the cover of the box, and that the label or printed mark, Wrigley Exhibit 99, was pasted over the bottom and around the sides and ends of the box in the same manner shown in Wrigley Exhibit
(4740) 96, and that these separate labels, Wrigley Exhibits 97 to 99, both inclusive, form a complete cover for the box, the cover thereto and the inside of the box cover, and that this was the form of label used on the boxes containing Wrigley's Doublemint gum during the entire accounting period except in instances where coupons were not used and the reference to the coupon was omitted in such instances, or if these were shipped to foreign countries, the printed matter was in a foreign language instead of
7078 the English language."

Mr. Aldrich objected to the offer. The objection was sustained.

Mr. Lane then offered in evidence the said box and each of the said labels which had been numbered respectively Wrigley Exhibits 96, 97, 98 and 99.

(The box was marked Wrigley Exhibit 96. The label used on the inside cover of the Doublemint box was marked Wrigley Exhibit 97. The label used on outside cover and on ends and sides of cover was marked Wrigley 98; and the label used on the bottom of box and around ends and sides thereof was marked Wrigley Exhibit 99. All of said exhibits were also marked "Offered, not admitted.")

(4741) Said Wrigley Exhibits 97-99, both inclusive, are as
7079-7081 follows:

WRIGLEY EXHIBIT 97.

20 FIVE STICK PACKAGES

Wm. Wrigley Jr. Co.

CHICAGO
NEW YORK
TORONTO
LONDON, ENG.

DOUBLE WRAPPED

WRIGLEY'S

DOUBLE STRENGTH

DOUBLEMINT

DOUBLE WRAPPED

DOUBLE SPEAR TRADE MARK REGISTERED

CHEWING GUM

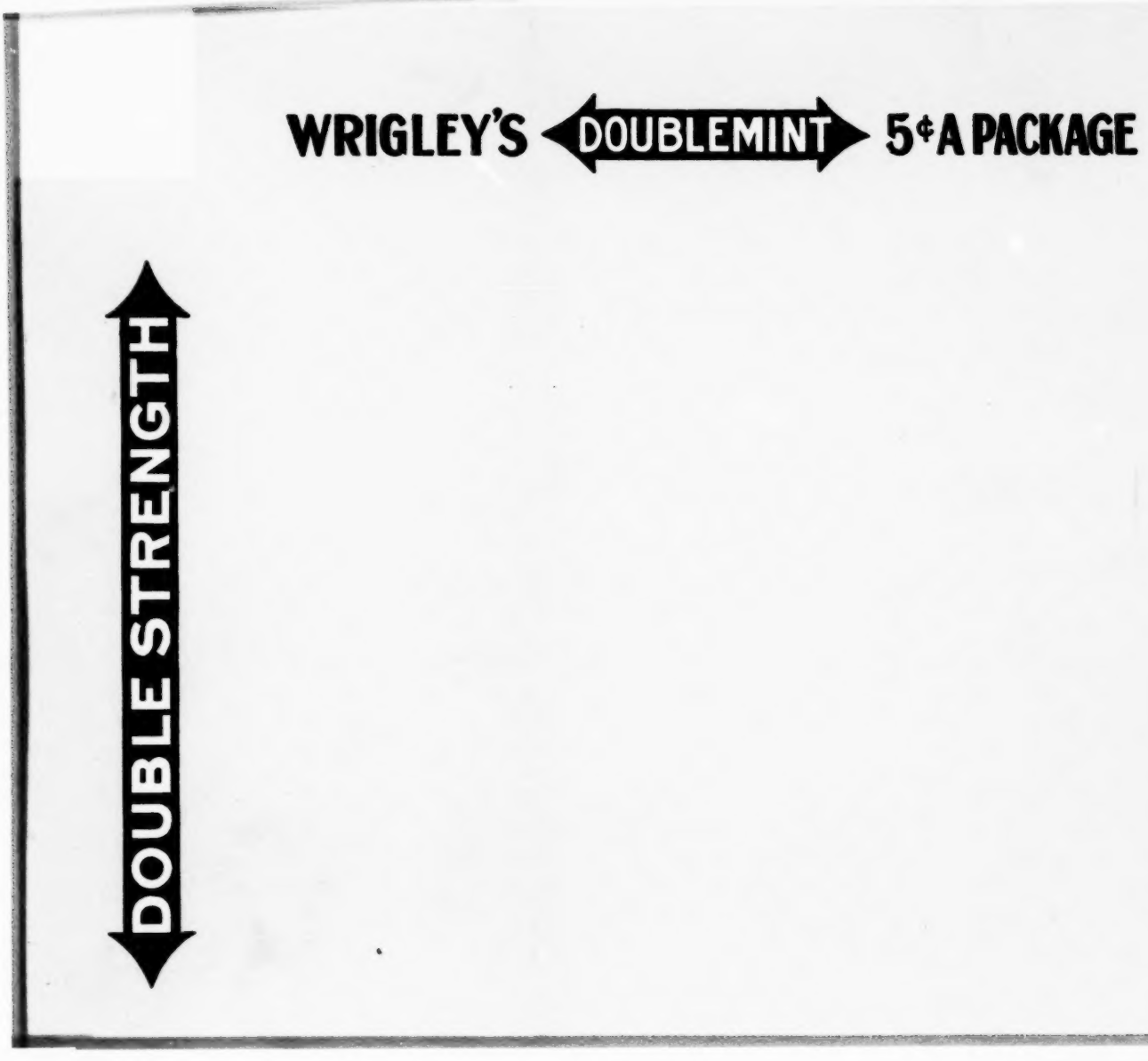
MADE BY THE MANUFACTURERS OF THE FAMOUS WRIGLEY'S SPEARMINT

WM. WRIGLEY JR. CO.
CHICAGO, TORONTO
NEW YORK, LONDON

DOUBLE STRENGTH

WRIGLEY'S DOUBLEMINT 5¢ A PACKAGE

WRIGLEY EXHIBIT NO. 99



(4744) Mr. Lane then asked the witness whether Wrigley
7082 Exhibit 96 was the box in which the gum was shipped to the jobbers, dealers and consumers of gum during the accounting period. Mr. Aldrich objected. The objection was sustained. Mr. Lane then offered to prove that the witness' answer to this question would be in the affirmative. Mr. Aldrich objected and the objection was sustained.

Mr. Lane asked the witness whether the Doublemint gum wrapped as indicated in the last few preceding questions was put on the counter for display in boxes, and with labels thereon like Wrigley Exhibits 96 to 99 inclusive. An objection was sustained. Mr. Lane offered to prove by the witness that the answer to the question
7083 would be in the affirmative. An objection was sustained.

Mr. Lane asked the witness whether it was the general practice during the accounting period for retailers who sold Wrigley's Doublemint gum wrapped as indicated in the last few preceding questions to display such gum on counters in these boxes, with the box open so that the ultimate purchaser could plainly see the box as well as the Doublemint gum five-stick packages contained therein in connection with making their purchases for consumption. An objection was sustained.

Mr. Lane offered to prove by the witness that the answer to this last question would be in the affirmative. An objection was sustained.

The witness then stated that he had prepared a list of the first Doublemint sales by states and by months of
7084 Wrigley's Doublemint gum accounted for during the year 1914; that said document was prepared from his knowledge and the information contained on the books of the Wm. Wrigley Jr. Company as to the first Doublemint sales in those states.

(4745) Mr. Lane then asked the witness to produce said document. The witness produced it and it was offered in evidence as Wrigley Exhibit 100. Mr. Aldrich objected. The objection was sustained.

Said document headed "First Doublemint Sales," so offered but not received in evidence, was marked Wrigley Exhibit 100, offered, not admitted.

7084-7086 Said Wrigley Exhibit 100 is as follows:

DOUBLE WRAPPED

Wrigley Exhibit 100.

Alabama—Sept. 1914.
Arizona—Sept. 1914.
Arkansas—Sept. 1914.
California—Sept. 1914.
Colorado—Sept. 1914.
Connecticut—Sept. 1914.
Delaware—Sept. 1914.
District of Columbia—Sept. 1914.
Florida—Sept. 1914.
Georgia—Sept. 1914.
Idaho—Sept. 1914.
Illinois—August, 1914.
Indiana—September, 1914.
Iowa—Sept. 1914.
Kansas—Sept. 1914.
Kentucky—Sept. 1914.
Louisiana—Sept. 1914.
Maine—Sept. 1914.
Maryland—Sept. 1914.
Massachusetts—August, 1914.
Michigan—Sept. 1914.
Minnesota—Sept. 1914.
Mississippi—Sept. 1914.
Missouri—Sept. 1914.
Montana—Sept. 1914.
Nebraska—Sept. 1914.
Nevada—October, 1914.
New Hampshire—September, 1914.
New Jersey—August, 1914.
New Mexico—September, 1914.
New York—July, 1914.
North Carolina—September, 1914.
North Dakota—September, 1914.
Ohio—August, 1914.
Oklahoma—September, 1914.
Oregon—September, 1914.
Pennsylvania—August, 1914.
Rhode Island—September, 1914.
South Carolina—Sept. 1914.
(4746) South Dakota—Sept. 1914.
Tennessee—Sept. 1914.
Texas—Sept. 1914.
Utah—Sept. 1914.

Vermont—Sept. 1914.
Virginia—Sept. 1914.
Washington—October, 1914.
West Virginia—August, 1914.
Wisconsin—September, 1914.
Wyoming—September, 1914.

(4747) Mr. Lane then asked the witness whether the infor-
7087 mation contained on Wrigley Exhibit 100 was correct as shown by the books of the Wm. Wrigley Jr. Company and within the witness' personal knowledge. Mr. Aldrich objected. The objection was sustained. Mr. Lane offered to prove that the answer to the question would be in the affirmative. An objection to the offer was sustained.

The witness then stated that he had examined the books of the Wm. Wrigley Jr. Company to ascertain the boxes of Wrigley's Doublemint accounted for in the accounting filed with the Master, shipped in the year 1914, showing those by states and by the number of boxes for the months of August, September, October, November and December, 1914.

Mr. Lane then asked the witness whether that statement accurately showed the number of boxes thus shipped and in the states and during the months shown on that document. An objection was sustained. Mr. Lane offered
7088 to prove that the witness' answer to the question would be in the affirmative. An objection to the offer was sustained.

The witness then produced the document in question and Mr. Lane offered it in evidence. Mr. Aldrich objected. The objection was sustained.

Said document entitled "Boxes Doublemint Shipped in the Year 1914," so offered but not received in evidence, was marked Wrigley Exhibit 101, Offered, Not Admitted.

7089-7091 Said Wrigley Exhibit 101 is as follows:

(4748) BOXES DOUBLEMINT SHIPPED IN THE YEAR 1914

STATE	AUGUST BOXES	SEPTEMBER BOXES	OCTOBER BOXES	NOVEMBER BOXES	DECEMBER BOXES
Alabama		4488	4195	2560	2236
Arizona		402	1356	793	323
Arkansas		4913	2759	1242	959
California		10	20100	7671	10861
Colorado		7074	1544	1508	1337
Connecticut		4960	1595	1189	518
Delaware		775	168	249	240
D. C.		1700	1450	317	1379
Florida		2606	1507	1237	428
Georgia		8256	2955	1989	1477
Idaho		450	1292	705	722
Illinois.	485	38605	27736	31611	21599
Indiana		18797	3834	4529	3244
Iowa		12298	4201	6843	1964
Kansas		6868	1873	3228	1955
Kentucky		7077	4119	2342	1853
Louisiana.		4759	2150	2346	1853
Maine		2716	509	674	287
Maryland		6803	3421	2671	2648
Massachusetts.	28	19516	8067	5141	3429
Michigan	8	16659	6277	7135	6834
Minnesota		9008	4020	4441	2703
Mississippi		2928	2362	616	1114
Missouri		18586	12076	12406	6596
Montana		300	2029	631	292

Nebraska		4656	2153	2087	1496
Nevada			200	109	88
New Hampshire		2015	250	351	105
New Jersey	100	9445	3435	2231	1833
New Mexico		606	694	153	263
New York	2900	50657	29078	26671	13216
North Carolina		3227	2754	359	145
North Dakota		2078	417	437	320
Ohio	1	37536	13677	10838	9708
Oklahoma		4259	2150	2118	1813
Oregon		50	4066	1902	1553
Pennsylvania	48	52657	13425	11015	11441
Rhode Island		3150	531	825	190
South Carolina		2885	1613	594	327
South Dakota		2358	289	450	542
Tennessee		7877	3909	2417	1959
Texas		14936	8645	8589	6244
Utah		500	3282	1327	115
Vermont		1300	108	363	215
Virginia		7220	4749	1757	1181
Washington		101	6023	3786	4119
West Virginia	1115	7425	1047	1390	1083
Wisconsin		10390	4225	4164	2047
Wyoming		150	12	591	48
	4,685 Bxs.	426,032 Bxs.	228,327 Bxs.	188,598 Bxs.	136,893 Bxs.

In addition to the above there was shipped in State of New York 1 Box Wrigley's Doublemint in month of July 1914.

(4749) Mr. Lane then asked the witness whether the Wrigley Company continuously after the year 1914 and during the balance of the accounting period sold throughout the various states mentioned in Wrigley Exhibit 101 Wrigley's Doublemint gum wrapped with the wrappers which the witness had testified such gum was wrapped in during the accounting period. An objection was sustained. Mr. Lane offered to prove that the answer would be in the
7092 affirmative. An objection to the offer was sustained.

Mr. Lane asked the witness whether those sales covered every city, town, village and hamlet in the United States during the accounting period. Mr. Aldrich objected. The objection was sustained. Mr. Lane offered to prove that the answer would be in the affirmative. An objection to the offer was sustained.

The witness then said that he had prepared from the books of the Wrigley Jr. Company the total sales by boxes and in dollars and the advertising expense in connection therewith of Wrigley's Doublemint gum wrapped in the same manner as the packages of gum accounted for in the filed account in the various states of the United States during the accounting period.

7093 Mr. Lane asked the witness to state what those were. An objection was sustained. Mr. Lane offered to prove by the witness the number of boxes of Doublemint gum sold in each state of the United States by periods corresponding to those shown in the account filed and the number of boxes as well as the price received therefor in each state during each period and the amount of advertising
(4750) expense connected therewith. An objection was sustained.

Mr. Lane then asked the witness whether the Wm. Wrigley Jr. Company received an order for Wrigley's Doublemint gum as such from the Fremont Bottling Works of Fremont, Nebraska, during the year 1914 and
7094 subsequent thereto. Mr. Aldrich objected and the master sustained the objection, stating that the court had held that the master had no right to go into that question, and that, therefore, the question was immaterial.

Mr. Lane then offered to prove by the witness that the Wm. Wrigley Jr. Company received directly from the Fremont Bottling Works, the company with which Mr. Larson's relatives were connected, of Fremont, Nebraska,

orders for Wrigley's Doublemint gum, calling for it by that name, during the year 1914 and subsequent thereto, during the accounting period from time to time, and that the Fremont Bottling Works sold that gum to dealers in that locality who in turn sold it to the ultimate consumers, the chewers of the gum, as the product of the Wm. Wrigley Jr. Company.

An objection was sustained.

Mr. Mayer then said that in making that offer counsel for the Wrigley Company were not limiting the testi-
7095 mony included in the offer to the witness Eckerly, but that the counsel for Wrigley Company were proposing to call other witnesses by whom could be traced those purchases made of Doublemint gum from the Wm. Wrigley Jr. Company by the Fremont Bottling Works, tracing the purchases to the vendees of the Fremont Bottling Works and to the ultimate consumers.

Mr. Aldrich asked Mr. Mayer what other witnesses it was proposed to call on that. Mr. Mayer stated: "We propose to take the testimony of the officials of the Fremont Bottling Works on that subject and of the retailers
(4751) to whom the Fremont Bottling Works resold the Doublemint gum in question and traveling salesmen who covered that territory and who know just what brands of gum were being handled during the accounting period by the purchasers from the Fremont Bottling Works in Fremont, Nebraska, and elsewhere and by clerks who were in those retail stores."

Mr. Aldrich objected to the offers as made as immaterial and irrelevant. The objection was sustained.

Counsel for the Wrigley Company then asked Mr. Aldrich whether he was objecting because all the witnesses referred to in the last offer were not in the court room at that instant. Mr. Aldrich said he was making no such
7096 objection, that he thought he had no right to make an objection on that ground, because such an objection would cause delay in the case that ought not to be had.

The master then said that it did not seem necessary that counsel for the Wrigley Company should call further witnesses and question them on this subject, because the master had already made a rule that made it certain what position he would take in the matter. He therefore suggested, if it met the approval of counsel on both sides,

that counsel for the Wrigley Company state what they expected these witnesses to swear to, and the counsel for the Larson Company could then interpose an objection and the master would pass upon it.

7097 March 16, 1923, 10:30 a. m.

EDWARD W. ECKERLY resumed the stand for further direct examination by Mr. Mayer:

I continuously since the incorporation of the Wm.
(4752) Wrigley Jr. Company in 1911 have been general manager. As such I have had direct supervision of all the sales and distribution of the various products made and sold by the Wm. Wrigley Jr. Company during all of that time. It was one of my duties as general manager during that entire period to review all the correspondence of the Wm. Wrigley Jr. Company relative to the sales of its various brands of gum including Wrigley's Doublemint
7098 gum during the period from July 28, 1914, to November 12, 1918, (the accounting period) and keeping in active touch with the customers of the Wm. Wrigley Jr. Company (immediate, intermediate and ultimate) who were buying, selling, using and consuming Wrigley's Doublemint and other brands of gum.

During the entire accounting period Wrigley's Doublemint gum had a peppermint flavor. The flavor of Larson's Wintermint gum during that time and previous thereto was wintergreen.

Mr. Mayer then asked the witness whether the Wm. Wrigley Jr. Company had manufactured chewing gum of various kinds and sold the same since January, 1911, on an extensive scale in every state, city, town and village of the United States and in numerous foreign countries, and whether the Wm. Wrigley Jr. Company at all times had used in connection with the manufacture and sale thereof, except on private brands, the name "Wrigley's" or "Wm. Wrigley Jr. Co.," or both, conspicuously on (a) the counterband wrappers containing five sticks of gum and (b) all boxes containing the gum, and whether it had always used the name "Wrigley's" conspicuously in connection with the advertising of all of its gum, including,
(4753) among others, Wrigley's Spearmint Chewing Gum,

7099 Wrigley's Juicy Fruit Chewing Gum and Wrigley's Chewing Gum.

Mr. Aldrich objected. The objection was sustained.

Mr. Lane then stated that he offered and expected to prove that the answer to this question if the witness were permitted to answer, would be in the affirmative, and that the facts were as indicated in the question.

The master stated that in making offers of proof, including those the Wrigley Company were about to make, the record might show that the Wrigley Company was to have exactly the same benefit of each and every one of the offers as though the Wrigley Company had made them in every possible separate part, and also that wherever an objection was made to an offer it might be considered as having been made to each and every part thereof, the same as if the offers had been split into every possible part, and the record might also show that such separate objections to such separate parts of the offers were sustained whenever the master sustained an objec-
7100 tion to the entire offer. The master also said that he thought that had been the understanding all along and that it would continue to apply, and that it might be understood that it applies to all such offers throughout the entire record made and to be made.

Mr. Aldrich then objected to the last offer and the objection was sustained. Mr. Mayer then asked the witness whether previous to the incorporation of the Wm. Wrigley Jr. Company in January, 1911, Wm. Wrigley Jr. & Company, a predecessor of the Wm. Wrigley Jr.
(4754) Company (party to this suit) had for years used the name "Wrigley's" and "Wm. Wrigley Jr. & Co." in connection with the manufacturing, advertising and sale of its gum sold to the public generally throughout the United States and in foreign countries and had conspicuously marked the wrappers around each package on the boxes it used in connection with shipping and displaying the same to the public with the name "Wrigley's" or "Wm. Wrigley Jr. & Co.," or both.

Mr. Aldrich objected. The objection was sustained.

Mr. Lane then stated that the counsel for the Wrigley Company offered and expected to prove by this witness that the facts are as stated in the question and that the answer thereto would be in the affirmative. Mr. Aldrich objected. The objection was sustained.

The witness continued:

I was connected with Wm. Wrigley Jr. & Company previous to the incorporation of the Wm. Wrigley Jr. Company so that I have knowledge of the facts about which I was asked in the last question. I was connected with Wm. Wrigley Jr. & Company before the incorporation of the present corporation, the Wm. Wrigley Jr. Company, about fifteen years, and I am sufficiently
7102 familiar with the sales of Wm. Wrigley Jr. & Company to be able to answer the questions that have been put to me concerning Wm. Wrigley Jr. & Company.

Mr. Lane then put the following question to the witness: "Will you state whether by virtue of the extensive sale of chewing gum wrapped and boxed in wrappers and boxes conspicuously marked with the name "Wrigley's" or the name "Wm. Wrigley Jr. & Co." or "Wm. Wrigley Jr. Co.", and by virtue of the exten-
(4755) sive and continuous display and advertising of the name "Wrigley's" in connection with the various gum productions of the Wm. Wrigley Jr. Company and its predecessor, Wm. Wrigley Jr. & Company, the purchasing public, immediate, intermediate and ultimate, had become so thoroughly familiar with the name "Wrigley's" in connection with the various gum products sold by it that on July 28, 1914, the name "Wm. Wrigley Jr. Co." and the name "Wrigley's" had become favorably and well known throughout the entire United States and in all cities, towns, villages and hamlets therein and in many foreign countries, and the Wm. Wrigley Jr. Company and its predecessor, Wm. Wrigley Jr. & Company, had become favorably and well known throughout the entire United States and in all cities, towns, villages and hamlets and in many foreign countries as a manufacturer
7103 and vendor of high grade gums of excellent quality and purity and of various flavors, and the public had come to know the Wm. Wrigley Jr. Company as the manufacturer and seller of such gum products and purchased the said products because of their excellence in quality and because sold in connection with the name "Wrigley's" and because the purchasers, immediate, intermediate and ultimate, desired the products of the Wm. Wrigley Jr. Co. as distinguished from the chewing gum manufactured or sold by any one else."

Mr. Aldrich objected. The master stated that he as-

sumed that the question was directed to the point that it was the Wrigley Company's contention that the purchasers of Doublemint gum knew they were purchasing Wrigley's gum and not Larson's gum, or that of any other manufacturer, to which Mr. Lane assented. The master then sustained the objection.

(4756) Mr. Lane then made the following offer of proof: "We offer and expect to prove by this witness and other competent witnesses having knowledge of the facts stated in this question that the facts are as stated therein and that the answer of this witness, if he was permitted to answer, would be in the affirmative."

Mr. Aldrich objected on the ground of immateriality and irrelevancy, stating that he took the opportunity of
7104 saying, in accordance with the master's suggestion of the day before, that he was not making any objection on the ground that the others referred to in counsel's questions are not actually present in the court room or tendered as witnesses. Mr. Aldrich also stated that he did not make any objection because of the leading character of the questions that were being put to the witness.

Mr. Lane then asked the witness to state whether during the entire period from July 28, 1914, to November 12, 1918, (the accounting period) jobbers, dealers, consumers and all other purchasers of Wrigley's Doublemint Gum, purchasing this gum from the Wm. Wrigley Jr. Company, bought such gum knowing it to have been manufactured or sold by the Wm. Wrigley Jr. Company, and that such purchasers were in no instances deceived
7105 or misled in any way as to the manufacturer or seller thereof by any of the marking, decoration, flavoring, appearance of individual sticks or by the wrappings containing the same or by the wrappings containing five individual sticks of gum bound together in a package, or by the box containing the same, or otherwise, and whether all such purchasers of Wrigley's Doublemint Gum bought
(4757) the same as and for the product of the Wm. Wrigley Jr. Company, desiring and intending so to do, most of such purchasers not knowing of the Wintermint Gum manufactured or sold by the L. P. Larson Jr. Company, and such purchasers as knew of the said product of the L. P. Larson Jr. Company bought Wrigley's Doublemint Gum manufactured and sold by the Wm. Wrigley Jr. Company, preferring it to the Wintermint Gum or to

any other product made or sold by the L. P. Larson Jr. Company.

An objection was sustained.

Mr. Lane offered: "To prove by this witness so far as he has knowledge of the facts, and by others who have knowledge of each of the facts inquired about in the question, that the facts are as stated in the question and that the answer to this question by the witness would be in the affirmative if allowed to testify."

7106 An objection was sustained.

Mr. Aldrich then made the following statement: "It might as well be said, because it should have been said before, that my statement made as to a former similar question in which I said I made no objection because of the fact that the witnesses were not present in court applies to this and all subsequent questions pertaining to this subject."

Mr. Lane then asked the witness to state whether the wrappings of each of the individual sticks of Wrigley's Doublemint Gum and of each of the packages containing such individual sticks, as well as all the boxes containing the same, were all plainly and conspicuously marked with the name "Wrigley's" and the name "Doublemint" as on Wrigley Exhibits 72 to 90, both inclusive. Mr. Aldrich objected. The objection was sustained.

(4758) Mr. Lane then offered and stated that he expected to prove by the witness and by other competent witnesses having knowledge of the facts that the facts were as stated in the question just put to the witness and that

7107 the answer thereto would be in the affirmative. An objection was sustained.

Mr. Lane then asked the witness whether he ever knew or heard of any instance of confusion in the minds of purchasers, immediate, intermediate or ultimate, of Wrigley's Doublemint gum with the Wintermint gum manufactured or sold by the L. P. Larson Jr. Company during the entire, or any part of, the accounting period, July 28, 1914, to November 12, 1918, or at any other time. An objection was sustained.

Mr. Lane then offered to prove by the witness that he would, if permitted to testify, state that he never knew or heard of any such instance of confusion. An objection was sustained.

7108 Mr. Lane then asked the witness to state his opinion based upon his thorough familiarity with the gum buying
7108 public as to whether any confusion ever existed during the accounting period between Wrigley's Doublemint Gum and Larson's Wintermint Gum as sold by the Wm. Wrigley Jr. Company and the L. P. Larson Jr. Company respectively. An objection was sustained.

Mr. Lane then offered and stated he expected to prove that in the opinion of the witness, based upon his thorough acquaintance with the buying public and from all facts which came to his attention during the acounting period, that no confusion ever existed between these two products during the accounting period or at any other
(4759) time. An objection was sustained.

Mr. Lane then asked the witness whether he ever heard or knew of anyone selling, offering or attempting to sell Wrigley's Doublemint Gum as or for Larson's Winter-
7109 mint Gum or as the product of the L. P. Jr. Company. An objection was sustained.

Mr. Lane offered and stated that he expected to prove by the witness that his answer to that question would be no. Mr. Aldrich objected and the objection was sustained.

Mr. Lane then asked the witness whether he ever knew or heard of any person dealing in, handling or consuming Wrigley's Doublemint Gum at any time during the accounting period, from July 28, 1914, to November 12, 1918, calling for, purchasing or selling or attempting to sell Wrigley's Doublemint Gum as Larson's Wintermint Gum or the product of the L. P. Larson Jr. Company.

An objection was sustained.

Mr. Lane then offered and stated he expected to prove that the answer to this question would be in the negative, and that he also offered and expected to prove by jobbers, dealers, retailers, traveling agents, salesmen and other persons qualified to answer, who have knowledge of the facts and observed purchases of such gum by the consumers and by others, that they would testify to the same effect as Mr. Eckerly would have testified if he had been permitted to answer as to all the excluded questions. An objection was sustained.

7110 Mr. Lane then asked the witness whether the Wm. Wrigley Jr. Company had ever sold, offered or attempted to sell any Wrigley's Doublemint Gum as or for Larson's

(4760) Wintermint gum manufactured or sold by the L. P. Larson Jr. Company, or any other product of that company. Mr. Aldrich objected. The objection was sustained.

Mr. Lane then stated he offered and expected to prove that the answer would be no. An objection was sustained.

Mr. Lane then asked the witness what was the purpose of the Wm. Wrigley Jr. Company and its officers and those directing its affairs in 1914 and subsequent thereto in putting out Wrigley's Doublemint Gum to the purchas-
7111 ing public. Mr. Aldrich objected, and the objection was sustained.

Mr. Lane stated that he offered and expected to prove by the witness that his answer would be, if permitted to testify, that the purpose of the Wm. Wrigley Jr. Company, its officers and those directing its affairs in 1914 and subsequent thereto was to give its trade a new brand of gum, and it so wrapped and boxed the same as to associate the new product in the minds of the purchasing public with Wrigley's Spearmint and other brands of gum previously manufactured and sold by the Wm. Wrigley Jr. Company. An objection was sustained, Mr. Aldrich stating that he made no objection to the offer because the offer was more than was called for by the question.

Mr. Lane then offered and stated he expected to prove by all other officials or others having to do with the directing of the affairs of the Wm. Wrigley Jr. Company in 1914 and subsequent thereto the same facts as he had
7112 offered to prove by Mr. Eckerly concerning the purpose of the Wm. Wrigley Jr. Company in putting out this gum
(4761) and the method of wrapping and dressing the same. An objection was sustained.

Mr. Lane then offered and stated he expected to prove by Mr. Eckerly and other competent witnesses having knowledge of the facts, including the officials of the Wrigley Company, persons having to do with the direction of its affairs, jobbers, retailers, consumers, salesmen and traveling agents, and by L. P. Larson Jr. and others connected with the L. P. Larson Jr. Company during the accounting period as follows:

(a) That the L. P. Larson Jr. Company and its Wintermint gum were each unknown in Canada, Australia, and in all foreign countries and in most of the states of and places in the United States where Wrigley's Double-

mint gum was sold by the Wm. Wrigley Jr. Company during the entire accounting period (July 28, 1914, to November 12, 1918), and every part thereof;

(b) That the selling price charged by the Wm. Wrigley Jr. Company for its Wrigley's Doublemint Gum during the entire accounting period (July 28, 1914, to November 12, 1918), and every part thereof, was never less,
7113 but generally more, than that charged by the L. P. Larson Jr. Company for Wintermint gum;

(c) That the Wm. Wrigley Jr. Company has never diverted or attempted to divert to itself, either directly or indirectly, any of the business of the L. P. Larson Jr. Company by selling or palming off or attempting so to do Doublemint gum or any other brand of gum for Larson's Wintermint gum or any product of the L. P. Larson Jr. Company, but at all times has conspicuously and persistently by its advertising, marking its sticks, packages
(4762) and boxes containing the same, and otherwise kept constantly before the public its name "Wm. Wrigley Jr. Co." as distinguishing its chesing gum, including every variety thereof, from the product of all others;

(d) That the purchasers, immediate, intermediate and ultimate, of Wrigley's Doublemint gum during the accounting period purchased it because each of them desired to purchase this product on account of his familiarity with and the desire to obtain Wrigley's gum made by the Wm. Wrigley Jr. Company for his use and consump-
7114 tion, and that all purchasers of Wrigley's Doublemint gum bought such gum knowingly, deliberately and dewignedly as the product of the Wm. Wrigley Jr. Company;

(e) That neither L. P. Larson Jr. nor the L. P. Larson Jr. Company had the means, credit, facilities, money, materials, plant, equipment, knowledge, experience or ability to have sold Wintermint gum during the accounting period in and throughout the territory, or any substantial portion thereof, in which the Wm. Wrigley Jr. Company sold its gum, nor could L. P. Larson Jr. or the L. P. Larson Jr. Company or any one connected with its affairs have filled orders for Wintermint gum in the quantities that the Wm. Wrigley Jr. Company sold its Doublemint gum during the accounting period, July 28, 1914, to November 12, 1918, nor any substantial portion thereof, and that the L. P. Larson Jr. Company did as large a

business during the accounting period as its plant, capacity, means and ability enabled it to do, and that it could not have procured supplies to have enabled it to have done more business than it did during the accounting period;

(f) The exact territory in which the Wm. Wrigley
(4763) Jr. Company and jobbers, retailers and dealers sold Wrigley's Doublemint gum from time to time during the accounting period, July 28, 1914, to November 12, 1918, and the exact territory in which the L. P. Larson Jr. Company did any business at any time during the accounting period, and the exact time when the Wm. Wrigley Jr. Company and jobbers, retailers and dealers first commenced the sale of Wrigley's Doublemint gum in each place and the extent of such sales in each place and the
7115 exact time when the L. P. Larson Jr. Company and jobbers, retailers and dealers first sold Larson's Wintermint gum in each place and the extent of such sales of Wintermint gum in each place;

(g) That the L. P. Larson Jr. Company did not at any time previous to or during the accounting period sell or make any attempt to sell its Wintermint gum in any substantial portion of the territory where Wrigley's Doublemint gum was sold, and that substantially all of Wrigley's Doublemint gum sold during the accounting period was sold in the territory in which Larson's Wintermint gum was unknown and never had been sold, and that none of the sales made by the Wm. Wrigley Jr. Company of its Doublemint gum was made with any intent, desire, design or purpose of forestalling the L. P. Larson Jr. Company or the sale of its Wintermint gum;

(h) That most of Wrigley's Doublemint gum sold by the Wm. Wrigley Jr. Company during the accounting period, July 28, 1914, to November 12, 1918, the exact amount of which we offer to prove, was sold to the ultimate consumer in places throughout the United States and in foreign countries where the Wintermint gum of the L. P. Larson Jr. Company was never sold, offered for
(4764) sale, known or heard of by the ultimate consumer, the chewer, and that such ultimate consumer bought Wrigley's Doublemint gum deliberately, designedly and for
7116 the purpose of procuring the product of the Wm. Wrigley Jr. Company, and that during the accounting period the Wintermint gum of the L. P. Larson Jr. Company was known only in a few places and to only a few cus-

tomers, all of which we offer to show the exact condition concerning, and that the ultimate consumers living in such places who bought Wrigley's Doublemint gum knowing of Larson's Wintermint gum deliberately and designedly bought Wrigley's Doublemint gum, understanding it at the time of purchase to be the product of the Wm. Wrigley Jr. Company, because they preferred it.

(i) Also that since June 15, 1915, the date on which the bill of complaint was filed in the case on hearing and up to November 12, 1918, no purchaser of Wrigley's Doublemint gum, whether immediate, intermediate or ultimate, was, when making the purchase of such gum, in any way misled or deceived as to the fact that the gum was Doublemint gum and not Wintermint gum, or as to the fact that it was manufactured by the Wm. Wrigley Jr. Company and not by the L. P. Larson Jr. Company, and that every purchaser and consumer of Wrigley's Doublemint gum between June 15, 1915, and November 12, 1918, purchased and received the same, well knowing at the time of purchase that it was Wrigley's gum and that it was manufactured by the Wm. Wrigley Jr. Company, and not wanting Wintermint gum or any product of the L. P. Larson Jr. Company;

7117 (j) We make precisely the same offer as that contained in the last excepting the period to be covered thereby is to be that beginning July 6, 1915, the date on (4765) which the answer and counterclaim was filed in the case on hearing, and up to November 12, 1918;

(k) We also make a similar offer of proof excepting that the period to be covered thereby shall begin March 14, 1917, the date of the decision of Judge Anderson in the case on hearing, and up to November 12, 1918;

(l) We also make a similar offer to prove and expect to show, except that the period of time to be covered therein shall be the entire accounting period;

(m) That for many years next prior to the commencement of the accounting period the Wm. Wrigley Jr. Company and its predecessors sold Spearmint gum in wrappers substantially similar to the Spearmint wrapper appearing on the face of the decree directing an accounting in this case, and that the Wm. Wrigley Jr. Company brought out its Wrigley's Doublemint package with a reversal of the colors of its Spearmint brand so as to retain the good will which the extensive sale (the amount of

which we offer to prove) of Wrigley's Spearmint brand had created.

Mr. Aldrich objected to all said offers. The objection
7118 was sustained.

Mr. Lane then said: "As showing the character of the witnesses by whom we intend to make some of this proof, we have here in the court room besides Mr. Eckerly, Mr. Dan Williams, Mr. N. V. Hackanson and Mr. George S. Chapman, and are in touch with a large number of jobbers, dealers, retailers and consumers, traveling salesmen and agents who are not in any way connected with the affairs of the Wrigley Company whom we can readily
(4766) produce, by whom we can substantiate the facts which we have here offered to prove.

"As showing the character of the testimony that will be given by the witnesses who are now in the court room, we offer and expect to prove by Mr. Dan Williams and other qualified and competent witnesses:

"(a) That he is manager of the Sundries Merchandise Department of the United Cigar Stores Company and the buyer for that company who distributes the merchandise purchased for that company to the retail stores of the United Cigar Stores Company and to various other retail stores handling its products and to various other stores which do not handle the products of the United Cigar Stores Company;

(b) That he has been eighteen years with the United Cigar Stores Company and thirteen years in Chicago in
7119 connection with the class of work above described;

(c) That he covers the entire middle west consisting of the states of Illinois, Wisconsin, Indiana, Missouri, Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Ohio, Colorado, Michigan, Kansas, Arkansas, Oklahoma, Tennessee and Kentucky, and did so during the accounting period, and during such period bought for and furnished to the various retail cigar stores of the United Cigar Stores Company and agencies handling the products distributed by these retail stores, after acquiring them upon requisition through this witness:

(d) That the United Cigar Stores Company now has 660 retail stores and agencies in his territory; that during the entire accounting period it had approximately 240 retail stores in the territory mentioned above; that he has

a list of the location of these stores which he is ready to produce;

(4767) (e) That he furnished during the accounting period and subsequently to these stores various kinds of Wrigley's gum, including Wrigley's Doublemint gum, the Beech-Nut gum and the American Chicle Company's brands of gum; that he made the purchases of these various kinds of gum from the manufacturers thereof during the accounting period and subsequently and that he distributed these when bought from such manufacturers to the retail stores referred to;

(f) That he personally knows the persons who sell these gum products over the counters of the retail stores, as it was his duty to visit each of the stores once a year during the accounting period, and while making such visits it was a part of his duty to see that the stock was adequate at all times, that the stores had the character of gums and other products that the public demanded, that he instructed the persons working in these various stores as to the manner of selling such products, and he watched during the entire period of accounting these vari-

7120 ous stores and the manner in which the purchasers of the gum products sold by these retail stores inquired for and purchased the same;

(g) That he knows from personal experience, observation and talking with various customers in these various stores and elsewhere that such customers many times do not live in the place where the store is located, but they are transients and come from all over the country, that they go to these United Cigar Stores and other retail stores handling the gum products referred to because of their familiarity with these stores and agencies in other localities."

(4768) March 16, 1923; 2 o'clock p. m.

7121 (Mr. Lane continuing with the offer)

"That he is familiar with the demands made by each of these stores and customers purchasing goods therefrom for the various products which they distributed during the accounting period; that in September, 1914, the United Cigar Stores Company began to order for distribution to its various retail stores Wrigley's Doublemint gum wrapped in packages and boxed in the manner

shown in this proceeding heretofore, and that previous to that time the United Cigar Stores Company had sold extensively Wrigley's Spearmint and other brands of Wrigley's gum made and sold by the Wm. Wrigley Jr. Company;

(i) That he is familiar with the proportion of sales of Spearmint gum to the sales of all of Wrigley's gum during the accounting period by retailers and retail stores of the United Cigar Stores Company whose gums are supplied them by the United Cigar Stores Company, and that Doublemint's proportion of such sales to all sales of Wrigley's gum was approximately 25% during the accounting period;

7122 (j) That the amount of Wrigley's gum purchased by the United Cigar Stores Company during the accounting period for sale through retail stores to the ultimate consumer was $937,140.65, and that of this amount $421,134.04 was purchased by the United Cigar Stores Company through the witness for distribution in the states mentioned above in which he operates as buyer;

(k) That on the various occasions when he visited each of the 240 stores once a year during the accounting period he saw customers come into these stores and make (4769) purchases of gum and observed the manner in which the clerks in each of these stores handled the sales of Wrigley's Doublemint and other brands of Wrigley's gum; that he was in the store for a very considerable period of time on the occasion of each visit so that he had an opportunity to see and observe the general practice carried on in connection with the sales and purchases of Wrigley's Doublemint gum; that customers coming into these stores on all occasions when he was present invariably asked for Wrigley's gum, Wrigley's Doublemint gum, Wrigley's Spearmint gum, or Doublemint gum, or Spearmint gum, or whatever brand they 7123 desired, and they received the gum that they thus asked for and no other kind of gum, and whenever they desired Wrigley's Doublemint gum they called for it as Wrigley's gum, Wrigley's Doublemint gum or Doublemint gum and under no other name, and when the customer asked for Wrigley's gum the clerk would ask the purchaser what flavor or brand was desired and the customer would indicate which of the ones mentioned was desired and he was supplied with the same;

(l) That from his constant observation of the purchases of Wrigley's Doublemint gum and the sales thereof by clerks over the counter during the entire accounting period he knows that the reason why they bought this Wrigley's Doublemint gum was because they desired the product of the Wm. Wrigley Jr. Company, and the reason why the United Cigar Stores Company sold this Wrigley's Doublemint gum and other products of the Wm. Wrigley Jr. Company as distinguished from the gum of certain other manufacturers, the products of which it did not handle, was because of the public demand for the products of the Wm. Wrigley Jr. Company;

(4770) (m) That although he knows of the requests of the consuming public and of their demands and was familiar with this during the entire accounting period, he knows of no sales of Wrigley's Doublemint gum that were made because the gum was wrapped in green wax paper, and

7124 so far as he knows no one ever made a purchase of Wrigley's Doublemint gum as or for the product of any other company than the Wrigley Company, and that he would be extremely likely to know if any such purchase was ever made;

(n) That while he is very familiar with the consumers purchasing gum from the various retail stores of the United Cigar Stores Company and other dealers purchasing from that company during the accounting period, there was no demand for Larson's Wintermint gum at any of those places during that time, and that neither Larson's Wintermint gum nor any other product of the L. P. Larson Jr. Company was on sale at any of these places during that time;

(o) That the United Cigar Stores Company never had any inquiries from any of its retail stores or agencies or customers for that company to supply Larson's gum for distribution anywhere and he would likely have known if there were any demand for this gum as he was watching closely the situation as the United Cigar Stores Company desires to sell whatever product there is a real demand for;

We offer to prove the facts which we have above stated Mr. Williams would testify to."

Mr. Aldrich then objected to all of the offer and each separate part thereof. The objection was sustained.

7125 Mr. Lane then made the following offer:

(4771) "We offer and expect to prove by Mr. N. V. Hackanson:

(a) That he has been with the United Cigar Stores Company for eighteen years, and between the years of 1914 and 1918 he was district sales manager and had to do largely with concerns outside of the city of Chicago located in the states of Illinois, Michigan, Iowa, Wisconsin and Indiana, and at present is assistant to Mr. Williams, buyer and manager of the Sundries Merchandise Department in the middle west of the United Cigar Stores Company;

(b) That he is at present inspector of stores and goes to each of them in his locality to see that the merchandising is properly carried on, and did the same character of working during the accounting period. His principal duties are, and were during the accounting period, to visit the stores of the United Cigar Stores Company and to spend two or three days in each store he visits to help the local clerks operate these stores, to sell merchandise, increase the efficiency of the stores and see that they were properly retailing the products thereof, and actually took part in the sales and all other work of running the stores while visiting each of them.

(c) That at all times, including the accounting period, he was in the habit of posting himself as to what articles of merchandise were being demanded at the various stores which he visited by the customers thereof, and he was familiar with what brands of chewing gum were called for by those customers during that time and that he never had any request from any store or customer for any of Larson's Wintermint gum or any product of the

(4772) L. P. Larson Jr. Company, and he would have known if there were any such demand among the customers, the buying public or from these stores themselves;

(d) That he will testify in other matters to the same effect as stated in connection with the offer to prove by Mr. Williams, and that he will furnish and supply full information concerning the exact locality of the stores he visited and the amount of Wrigley's Doublemint gum sold in those stores during all portions of the accounting period;

(e) That he would also testify that whenever any of

Wrigley's Doublemint gum was called for or spoken of by either the clerks at the stores under his jurisdiction or the customers thereof they would refer to it either under the name of Doublemint or under the name of Wrigley's Doublemint, and that no effort to palm off Wrigley's Doublemint gum for Larson's Wintermint or any other product of the Larson Company was ever made at any of those stores.

We offer to prove those facts by Mr. Hackanson and
7127 other competent, qualified witnesses."

Mr. Aldrich objected to the said offer and each part thereof. The objection was sustained.

Mr. Lane then made the following offer:

"As further showing the character of witnesses available and here present, we offer and expect to prove by George B. Chapman:

(a) That he has been with the Wm. Wrigley Jr. Company since January 1, 1916, as traveling salesman in the middle west, covering during the years 1916, 1917 and 1918 twelve states, Michigan, Wisconsin, Illinois, Min-
(4773) nesota, North and South Dakota, Nebraska, Iowa, Kansas, Missouri, Arkansas and Oklahoma:

(b) That he was formerly with the American Chicle Company in a similar capacity:

(c) That he calls on jobbers, among others, and ascertains general conditions by calling on retail stores in the states named and elsewhere to ascertain the conditions and demands for chewing gum, and has watched purchasers making purchases of gum in various and numerous stores throughout this territory and elsewhere, and that he did the same while he was with the American Chicle Company;

(d) That the retail stores covered by him constantly
7128 were drug stores, candy stores and cigar stores, and that in each instance when he went to retail stores he would ask the clerks or those running the store how Wrigley's gum was selling or going compared with the sales of other gum, the demands for different brands of Wrigley's gum, and these retailers would tell him just what the situation was;

(e) That while in these stores he observed the customers making purchases of gum and that they would usually ask, when desiring to purchase Wrigley's gum,

for Wrigley's gum or call for the specific brand of Wrigley's gum, such as Spearmint, Doublemint or Juicy Fruit, and the retailer would furnish the gum desired, and that when they desired Doublemint gum they either called for it as Wrigley's Doublemint gum or Doublemint gum;

(f) That it is a part of his duty to watch the advertising of all kinds and report as to the conditions of same in each locality;

(4774) (g) That he called on hundreds of retail stores throughout the territory constantly during the period from 1916 to 1918 and in the principal places in each state that he traveled;

(h) That during his entire connection with the American Chicle Company and with the Wm. Wrigley Jr. Company he never heard any customer ask for Larson's gum or Larson's Wintermint gum and never saw it in any retail store that came under his observation; that he has seen some of Larson's gum in the jobber's stock but none
7129 in the retail store;

(i) That during the years of 1916 to 1918 he traveled throughout the state of Nebraska and while in the state of Nebraska he took orders from the Fremont Bottling Works, which company is located in Fremont, Nebraska, and is a bottler and wholesale candy dealer, handles pop, candy and drug products on a wholesale plan, that is, they are jobbers; that the Fremont Bottling Works on various and sundry occasions during the entire period from 1916 to 1918 bought Wrigley's Doublemint gum from him for resale to dealers and by the dealers to the trade in Fremont, Nebraska, and that the persons connected with the Fremont Bottling Works bought such gum knowing it to be the product of the Wm. Wrigley Jr. Company and bought it as such through him, and it was always ordered by that company of the Wm. Wrigley Jr. Company as Wrigley's Doublemint or Doublemint;

(j) That he has been in various of the retail stores in Fremont, Nebraska, and was there during the years of 1916 to 1918 repeatedly and never saw any of Larson's gum on sale at any of those stores, but did see Wrigley's Doublemint gum on sale there in every candy, cigar and drug store visited, and that this situation was universal
(4775) in every store that he visited throughout his whole territory and elsewhere in the United States during the entire accounting period.

7130 (k) That he never heard of Larson or the L. P. Larson litigation until the late fall of 1918;

(l) That he never knew or heard of any confusion existing between Larson's Wintermint gum and Wrigley's Doublemint gum during the accounting period or at any other time.

We offer and expect to prove the matters which I have stated this witness will testify concerning."

Mr. Aldrich objected to said offer and each part thereto. The objection was sustained.

Mr. Lane then said:

"We have various retailers and consumers and others who can substantiate the propositions stated in these various offers, and we now specifically offer to prove that they never purchased any of Wrigley's Doublemint gum as and for Larson's wintermint gum, and as to all the other facts that they would otherwise confirm all of the offers which have heretofore been made."

Mr. Aldrich objected to the offer. The objection was sustained.

(4776) L. P. LARSON JR. resumed the stand for further
7131 direct examination by Mr. Mayer.

Mr. Mayer stated to the witness that he intended at that time to ask him specifically for each piece of information pertaining to the business and affairs of the L. P. Larson Jr. Company from which it may be told what taxes, corporation, income and profits taxes, that company had to pay in 1917, and 1918 and also what amount
7132 it would have had to pay additionally upon any other profits which the company might have received in 1917 and 1918 respectively.

Mr. Aldrich objected to Mr. Mayer asking Mr. Larson any such questions on the ground that the evidence was immaterial and irrelevant to any matter at issue, and also stated that Mr. Mayer was not entitled to the information because of public policy. The objection was sustained.

Mr. Mayer then stated to the Master that his purpose was to find out what the facts are with respect to the L. P. Larson Jr. Company in the dates named so that if the witness would answer the questions the answers would show the per cent. of taxes or income or profits taxes

which the L. P. Larson Jr. Company would have had to pay on its profits during those two years; and that he understood an objection to making that proof had been made and sustained.

Mr. Mayer then offered to prove by the witness that if the witness had been permitted to furnish the information that the counsel for the Wrigley Company were then
7133 seeking, and to answer the questions referred to, to which objections had been made and sustained, that it would appear that the L. P. Larson Jr. Company would have had to pay at least 60% to the United States Gov-
(4777) ernment as a corporation income and profits tax on such amounts of profits as the L. P. Larson Jr. Company claims were earned by the Wm. Wrigley Jr. Company on its Doublemint business at any time during the accounting period, or on any Doublemint profits appearing to have been made in the accounts theretofore filed by the Wrigley Company to deducting income or excess profits taxes therefor, and also that the L. P. Larson Jr. Company would have had to pay as high a percent as the Wrigley Company would have been required to pay, that is, to pay an amount equal to or in excess of the amount deducted by the Wrigley Company in its filed account for federal taxes.

7133 Mr. Aldrich objected. The objection was sustained. Mr. Mayer then stated to the witness that the witness had been asked at a recent hearing to prepare an itemized statement showing the dates on which he ordered individual stick wrappers or counterband wrappers from Charles G. Buck for use on Wintermint gum, such statement also to show the quantities ordered and the amounts paid Buck therefor, whether they were single stick banks
7134 or counterbands, and also the number of each that were delivered by Buck to the L. P. Larson Jr. Company and the dates of the delivery, and Mr. Mayer asked the witness whether he had done so. Mr. Aldrich objected on the ground or immateriality and irrelevancy to any question at issue between the parties to this accounting. The Master stated that for the purpose of contradicting the testimony of Charles G. Buck with relation to his business dealings with the Larson Company and for no other purpose, he would admit the evidence and overrule the objection. The witness continued. I have not pre-
(4778) pared the statement Mr. Mayer has referred to be-

cause I brought the ledger sheets showing the business we had done with C. G. Buck & Company during 1912, 1913 and 1914 which showed the amounts paid C. G. Buck & Company during the time in question. Those are loose ledger sheets. I cannot tell from anything appearing on what I brought here what the nature of the printing was for which those payments were made. I have not
7135 any such documents with me that would show that. The invoices would be credited on the journal which would be posted to Buck's account, and the only thing that would show that would be the invoices. Some of those invoices are in existence which show payments made to Buck and what the payments were made for. We have some invoices where Buck has billed us for printing that we could tell. My counsel has advised me not to make any explanation, but I would with his permission like to make one. When we ordered the Wintermint label from Kittredge & Company we, or rather myself, being desir-
7136 ous of putting the Wintermint product on the market as early as possible and having placed a large order in December with R. J. Kittredge & Company for Wintermint labels, learned it would take quite a while to get any labels so I had a plate made up by Mr. Buck like I had done on my other brands to see how the package would look, and as we had just had a big campaign on our Peptomint gum through the northwest and R. J. Kittredge & Company advised me to get a new package out, I got up this Wintermint package with Mr. Kittredge. Now, what I want to say is this: Then I went
(4779) over to Buck and had a sample run off or something around ten thousand Wintermint counterbands made up. That order of practically ten thousand counterbands does not amount to much money.

"Q. How much?

A. Well, about one dollar and a half.

Q. For the whole ten thousand?

A. Yes, fifteen cents a thousand.

Q. You are speaking about counterbands that contained five sticks of Wintermint gum each?

7137 A. Yes. They cost about $1.50. In getting labels like that from Mr. Buck, why, he would give us a receipt for the quantity. Now, those receipts I gave to Mr. Aldrich with others I had received from Kittredge & Company in the early case, that is, not before the master here, that

was the case before Judge Anderson, and Mr. Aldrich, I find in looking over that record, has never put in these receipt slips from Buck. He used the Kittredge & Company invoices to prove up on our Wintermint package. I believe it is right to say that I did not order any Wintermint counterbands from anybody unless it was from Charles G. Buck or Kittredge, and that they were the two concerns to whom I limited my orders for those counterbands. I gave those receipts that I say Charles G. Buck gave me when he delivered the Wintermint counterbands, to Mr. Aldrich as proof for this before Judge Anderson in this case. As to where those receipt slips are now that I referred to, I will say I asked Mr. Aldrich for them the other day and he said he would make a search for them. They were slips that were about 2-½ by
7138 4-½ inches long I would say. (Mr. Mayer then asked Mr. Aldrich whether the receipts were in existence. Mr. Aldrich said they were if he has kept them.) Mr. Aldrich added that Mr. Larson told him Mr. Aldrich, that
(4780) he (Larson) knew which check paid for the said counterbands, but that there was other printing embraced
7138 in the check and that Larson had the check at the hearing. The witness continued: I have here the check stubs of the kind that Mr. Aldrich has just referred to. As to whether it is correct in understanding me to say that before I received any Wnitermint counterband labels from Kittredge I received a total of 10,000 counter-
7139 bands from Buck and 50,000 individual stick wrappers, I will say I know I got 10,000 counterbands. Now, as far as the green paper was concerned, we purchased the green paper from R. J. Kittredge, they had it in stock, and C. G. Buck printed the first wrappers on green paper for us. I do not mean for the Wintermint counterbands, I mean for the Wintermint wrappers, i. e. for the Wintermint individual stick wrappers. As to whether I got $50,- of them I will say in that proportion it would be that many we had—ten thousand counterbands. As to whether these receipt slips which Mr. Aldrich had would show just exactly what I got, the dates I received them and the amounts that I paid for them, I will say it was all in the one slip we got from Buck that I gave Mr. Aldrich. We got several slips from Buck, but this slip on the first counterbands, that is what I gave Mr. Aldrich. I
7140 said that I gave this order for 10,000 Wintermint gum

counterband wrappers and fifty thousand Wintermint individual stick wrappers to Charles G. Buck so that I could handle my requirements until my order which I gave Kittredge in December, 1913, could be filled by him, but not only that, because it is my habit of going out to
(4781) Fremont, Nebraska, Christmas, and I wanted to have something to show the folks out there in regard to a package, and we had received an order from the Fremont Bottling Works for a case of Peptomint gum. I mean to say now that one reason for giving Buck this order for ten thousand Wintermint counterband wrappers was in part so that I could get them quickly so as to show people in Fremont, Nebraska. As to whether the other reason was because I wanted to get my Wintermint gum on the market as quickly as possible, I will say that it was for financial reasons—raising money, that was the main thing.

7141 Mr. Mayer then stated that inasmuch as Mr. Aldrich said that he would have a search made for the said Buck slips he would go no further with Mr. Larson at that time. Mr. Aldrich then stated that the slips and the memorandum about the orders to Kittredge had been given to him when he was preparing for the first trial; that he had not used them at said trial having called Caulfield of Kittredge & Company as a witness who testified to the receipt of orders; that at one time he had had in his possession the Buck slip; that it was only a single piece of paper, but that he had not seen it since he tried the case in 1914 and that he told Mrs. Loveless, his secretary, that it must be found and that it would be brought here if he could find it. Mr. Mayer then asked Mr. Larson to have at the next hearing anything that
(4782) was in his custody, or under his control, or in the cus-
7142 tody or control of his company, L. P. Larson Jr. Company, whether by way of correspondence, letters or invoices, which would have any bearing upon orders given by him or the L. P. Larson, Jr. Company, or any one on its behalf, to Charles G. Buck or his concern. "for printing Wintermint gum counterband labels or Wintermint gum individual stick labels" in 1913 and 1914. The witness said he would so so.

(4783) April 17, 1923. 10:30 o'clock A. M.

7143 HAROLD BENINGTON, resumed the stand for further cross-examination by Mr. Aldrich.

My firm was first employed by the Wrigley Company nearly two years ago. It was just before the date I think Touche, Niven & Company actually rendered their typewritten report.

7144 It is correct to say that my testimony has been to the effect that I have not made an extensive examination of the books and papers of the Wrigley Company but have confined myself to an investigation of only those points where there are differences either between the Wrigley accounting as filed and the Touche-Niven report and the Marwick, Mitchell, Peat & Company report.

In making my report which appears now in the record as Wrigley Exhibit 92, Benington 1, my understanding was that the attorneys for the Wrigley Company sought my advice as to whether the points raised by Touche, Niven & Company and Marwick, Mitchell & Company were properly taken or not, and as to whether in my opinion the account as filed by the Wrigley Company was correct in theory or not and whether I would suggest any changes, and generally to advise them on accounting matters arising out of this suit.

As to whether, broadly stated, it is my wish to have the master understand that with the exceptions and only to the extent noted in my report I regard the Wrigley account as filed as correct I will say I do not want to make (4784) any too broad a claim on that. What I have in mind 7145 is this. I do not claim to have checked its clerical accuracy. It may, of course, be full of inaccuracies. I simply have not checked, but in theory, except as noted in my report, I believe it to be properly prepared.

I mean that except where in my report I disclaim any expression of opinion on a point or express an opinion which is different from the theory on which the Wrigley account was prepared, with those exceptions I do consider the Wrigley account properly prepared as regards theory, but I accept no responsibility for its clerical accuracy because, as I have pointed out, I have not gone into the minute details.

I understand the ultimate purpose of this inquiry and

hearing is in order that the master may determine whether or not any money award should be made in this suit, and if so, what amount. I understand the purpose
7146 of this hearing to be to ascertain what the gains and profits, if any, arising or accruing to the Wrigley Company were from the manufacture and sale of Doublemint gum in the infringing dress from July 28, 1914, to November 12, 1918.

It is to be understood also that in making this report and investigation and the giving of my testimony with reference to that subject I have reached my conclusions purely as an accountant and not at all as an advocate and in no way at all affected by my employment.

As to whether I have in any way understood and do understand that in reaching conclusions on this subject of gains and profits for the period named that I am to apply the same or a different rule than I would apply as an accountant if I were instructed by a merchant to ascertain his gains and profits during a given period I will
(4785) say the rule is somewhat different because one is finding a profit for a special purpose. I have in mind, for instance, that I have included as an expense chargeable against the profits the item of interest on investment which, of course, would not feature if I were finding the profits earned by a merchant in his whole business.

(Mr. Aldrich then put the following question: "Did you reach the conclusion of your own accord or were you under the advice of the attorneys for the Wrigley Company in preparing your report and giving your tes-
7147 timony that a different rule was to be applied in this instance than would be applied in ascertaining the profits of a corporation or partnership for a corresponding period under their instructions and special employment of your firm for that purpose?")

I relied on my knowledge obtained in connection with other similar cases where charges such as I am speaking of have been used.

I do not wish to add to that answer in any respect except that, of course, I do not pretend that I did not consult the attorneys for the defendant from time to time in connection with this accounting. I was frankly in conference with them on a number of occasions.

I desire to be understood as saying that I know that a different rule is to be applied in this case in ascertaining

the profits of the Wm. Wrigley Jr. Company for the period named than would be used in ascertaining the profits of a manufacturer or merchant for a similar
(4786) period where no adverse interests were concerned.
7148 As to whether in making this investigation and reaching the conclusions shown by my report and to be deduced from my testimony I understand that in such a case as this, where the fact of infringement has been held and an accounting ordered, that there was a difference in the rules to be applied between an innocent infringer and one who was willful and malicious in his infringement I will say it was not my understanding that a different rule should be applied in such a case by an accountant engaged in the matter because I should regard that as usurping the judicial functions of the master. I understood my duty to be to prepare the account along such lines as would show what would be the profit to be accounted for to an outsider, and then my understanding was that the master would then determine whether the defendant was or was not a malicious, wanton infringer, and so forth, and would impose the appropriate penalties.

(Mr. Aldrich then put the following question to the witness: "You have stated in your last answer that you understand your duty to be to ascertain the gains and profits as between the Wrigley Company and an outsider, and in a prior answer you have stated that you understaood and had prepared your account and given your testimony on the basis that there was a difference between an accounting as between the Wrigley Company
7149 and an outsider and between a case where you would be employed, say, by the Wrigley Company to ascertain the profits for this same period where the rights of an outsider were not involved.")
(4787) I mean on a different basis, just as when one prepares the profits of a company for the benefit of the Treasury Department for tax purposes, one introduces and excludes certain factors that would not be excluded or introduced if one were arriving at the profits for the purposes of the management of the company concerned.

I will illustrate further. The basis on which the Federal income and profit taxes are figured for the purposes of my account here necessarily involved considering the
7150 portion of profits to be accounted for to an outsider

as though that were a separate business, whereas, if I were ascertaining the profits of the Wrigley Company as a whole, I should calculate the income and excess profits taxes on their profits as a whole. All the way through this account as filed by the Wrigley Company or as prepared by Touche, Niven & Company, Marwick-Mitchell or myself different rules of accounting have been applied than would be used were the object sought merely to ascertain the profits of the Wrigley Company as a whole.

As another example, one may take advertising. It would be necessary for the purposes of this account to ascertain with as great exactitude as possible the amount of advertising chargeable against Doublemint; if one were ascertaining the profits of the Wrigley Company as a whole, it would not be necessary to make such a segregation. And that applies to almost every element of expense that enters into this account. The books of the Wrigley Company show that expense under that heading as a whole, and then the accountants have to apply the most just and equitable means at their disposal to pick out from that expense as a whole the portion thereof which should be considered as chargeable against the
(4788) Doublemint sales.

7151 I desire to be understood, broadly stated, that quite different rules to the ascertainment of profits in this case than would have been applied had I been commissioned by the Wrigley Company to ascertain for it the profits of the whole business during this period.

I consider that one is called upon to apply different rules of accounting, but I do not want to be—I don't mean this as offensive—I do not want to be trapped into making a statement that the rules of accounting are materially different. All I mean is that necessarily in trying to segregate from total profits the profits which apply to only a portion of the business that obviously different rules of accounting have to be applied than are applied in getting the profits of the whole.

I have often had accounting commissions to ascertain
7152 the profits of a manufacturer or merchant which included the duty of ascertaining the profits of different departments of the business.

As to whether such a commission would be in all respects similar to the commission which I have en-

deavored to execute in this case I will answer that question in this way if I may, that, had I been commissioned by the Wrigley Company to ascertain for it the profits derived from the manufacture and sale of Doublemint during the infringing period, that I should have applied the same accounting rules to the account that I prepared for them as I have applied in preparing this account. If my commission had been to ascertain for the Wrigley Company itself what were the profits derived by it from its leading brands of gum, of course, the ac-
(4789) count would necessarily have been different.

If I had been employed to ascertain the relative profitableness or unprofitableness of the leading brands of gum manufactured by the Wrigley Company so that it could be ascertained which ones were profitable and which ones were unprofit-
7153 able, I would have prepared my report on the same basis as I have prepared my report here. I have included in my report nothing because there was an outsider involved that I would not have included in the report which I was commissioner to execute under the last supposition except possibly this item of interest on invested capital. And I do not want the master to get any wrong impression from what I am saying on that subject. I want to make it quite clear that as a rule in ascertaining profit of a business as a whole one does not charge interest on invested capital because it would be simply taking it out of one pocket and putting it into another. Obviously, if you have a charge, you have got to have a credit. The net result would be the same, but it is not unusual even in the accounting of commercial concerns themselves where they are endeavoring to find a profit derived from a patricular department or a particular profit to figure interest as a charge against that department and credit the interest to their general earnings because, of course, it is very obvious that one investment in one department might be a very heavy expense and in another department might involve very little, and to really find out whether the businesses were profitable or not you wold have to consider that. So that in that sense I don't think that the rule of accounting is per-
7154 haps any different in this account than it is in com-
(4790) mercial accounting.

There is no other item than interest on invested cap-

ital in my report that has been influenced by the fact that there is an outsider involved.

With respect to interest on good will I will say, I regard that as a part of interest on invested capital which is simply a subdivision of it.

I should define invested capital as the value of the capital assets which an owner has invested in his business. Now, that might not always mean the actual cost to him of those assets, it might be their ascertained value. For instance, in connection with income tax matters, figuring invested capital, of course, you are entitled to consider not just the price you paid for something, but you are allowed to take its fair market at 1913, and so forth. I would not say that is by legislation. I think by the rule of equity and fairness. It is a Treasury ruling.

7155 I understand that invested capital in accountancy usually and generally is held to apply to the tangible assets or amount of capital that has been invested to build and equip the business. That is the net invested capital in the business. I regard the net invested capital in the business as the tangible assets, current assets, less, of course, all liabilities to outsiders. What is commonly expressed on a balance sheet as represented by capital and surplus.

I know of a rule of accountancy or law that includes good will of a business in the invested capital. It is very usual to include it where it is acquired in exchange for cash or other valuation consideration. It is not usual to set it up on the books of account of a corporation if (4791) it were not purchased.

As to whether I know of any rule of accountancy which treats good will as invested capital when one is endeavoring to ascertain its value I will say, I do not quite understand the question because it can only be included as invested capital at its value. It is included with the idea of finding its value, and, as I have said before, it is usual to include it at the price paid for it. Of course,

7156 I have known of cases where it has been necessary to ascertain in money the value that should be attributed to good will where the good will is not expressed in the books of account. If one were buying into a business, of course good will would be something that one would have to place a value on.

Good will is carried on the books as invested capital in statements made by corporations to banks and other places for obtaining credit invariably if it was acquired for cash or other valuable consideration.

I intend to limit the last answer to a case where a business is consolidated or reorganized, where there is paid for such business as a running business in addition to the price of the tangible assets and surplus a further sum representing the good will. That is the only case where I know of good will being included on the books thereafter as invested capital. That means the price that the good will of the business after such reorganiza-
7157 tion or consolidation has cost the investors in money or securities that they paid for it.

As to my reason for making the distinction which I stated when I was first questioned on cross-examination of applying different rules in stating gains and profits
(4792) where an outsider was involved I will say I think I began by replying somewhat too emphatically that there were different rules. I think as my answers went on I modified that to the extent of saying that with the possible exception of interest I considered that the account prepared by me on exactly the same basis and had applied to it the same rules of accounting as would have been done had the account been prepared for the Wrigley Company itself.

7158 Profits are the difference between the amount of money received for merchandise or whatever is being dealt in commercially and the cost of its purchase, manufacturing and sale after considering all elements of expense.

Broadly stated, the definition means that profits are the difference between cost and yield. That term is to be differently defined where an outsider is involved and in ordinary practice in ascertaining the profits of a corporation or firm to this extent: I do not say that it has arisen in this accounting but I am merely using this as an illustration. Supposing a defendant is called upon to make an accounting of his profits to an outsider and he possesses many valuable assets which he acquired many years ago and which he has been carrying on his books at their original cost, in the meantime the war and other factors have intervened to make the reproductive cost of those infinitely higher than what he gave for them, I consider a different rule of accounting might and should be

applied; that in considering the capital employed it should be taken at its fair reproductive cost at the date
7159 at which the infringement commenced rather than its book value which might have been very much less or very much more than its real value.

(4793) As to whether it is to be understood by my last answer that in the case of a manufacturer who had bought materials, steel, for instance, at a lower price, which he had on hand before the increase which I have supposed in my last answer had arisen, that the difference between cost and yield would be measured, so far as cost is concerned, by the increased price of the material entering into the manufacture I will say I think in such a case the court might so regard it, either way. Supposing the defendant had a very large quantity of merchandise on which he had been badly stung, the market price of which was half of what he gave for it. I think the court might very well allow the defendant, for the purposes of the accounting, to inventory that merchandise at the beginning of the infringing period at the fair market price on that date, and, conversely, of course, if the defendant had bought something at very much below the market price at the date of the commencement of the infringement, he might be allowed to write its value up to the market price before beginning to take his account. I do not say that is a positive rule of accounting, that is customary in accounting, but I think it would require a special rule.

7160 It is customary as a matter of being conservative in accountings to take the lowest price in ascertaining profits and not follow the vagaries of the market. It is not a matter of logic really. There is not a logical basis for it, but in order to be conservative, and it always pleases bankers. Of course, it is customary, it is true, to inventory merchandise on hand at cost or market, whichever happens to be lowest, but under special conditions that does not necessarily hold.

(4794) In ascertaining the profits in a case where an outsider is involved I would apply this customary rule which I have just announced unless there was some very exceptionally large item which called for particular consideration.

It is correct to say that my report and evidence as given is with the exception of interest on capital invested

what it would have been had I been commissioned by the Wrigley Company to find the gains and profits on the several kinds of gum manufactured by the Wrigley Com-
7161 pany for the period named, treating each brand of gum or its manufacture as a separate department.

As to whether I mean by that to be understood that I would have apportioned the income and excess profits taxes as I would have apportioned them in that event I will say I am wrong to that extent. Of course, I could not have done that. In the account that I have prepared I have treated the income and excess profits taxes chargeable against Doublemint sales, or profits, rather, as being in the highest class, the highest bracket ruling during the years in question, and later in my report I do submit an alternative method for the consideration of the master for the distribution of those taxes. Of course, if I were arriving at the profits derived from all brands of the Wrigley Company, it is true, as you point out, that all the profits could not have fallen into the highest bracket naturally, so I could not have made it on an identical basis.

I understand that Doublemint gum was manufactured and sold along at the same time that the other kinds of gum manufactured by the Wrigley Company were sold.

As to whether I have understood in the preparation of my report that for the purposes of this accounting the
(4795) Doublemint was manufactured at the same cost, sold
7162 at the same price, subject to the same discounts and through the same agencies as the other leading brands of the Wrigley Company, I will say I do not that I have made any assumption at all about those lines. I think that all the conditions that you mention there affect the figures in the account in regard to which there is no dispute between Touche, Niven & Company and the Wrigley Company. That is just off hand my impression.

(Mr. Aldrich then put the following question:

"Adopting that assumption or impression and likewise assuming, as you have answered in the last answer, that the sales were made contemporaneously with the other sales of the leading brands of gum by the Wrigley Company, how under the assumption of a commission from the Wrigley Company to ascertain the gains and profits of these several gums and the different departments of

the business would you have apportioned the income and excess profits taxes?")

I should have apportioned it in the ratio that the profits from each brand of gum bore to the total profits of all brands.

(Mr. Aldrich then put the following question:

"And under the assumption that is included in that question as to cost, sale price, discounts and so forth, what would that proportion have been?")

I could not possibly answer that question without mak-
7163 ing the accounting that you speak of. It would not be the proportion of Doublemint sales to the other sales. Mr. Aldrich has asked me how I would have apportioned taxes which are predicated on profits before charging the
(4796) tax therefor. Of course, I should proportion it, not according to sales but in proportion to the profits earned by these various brands. Suppose you were running two concerns and one earned, before considering taxes, a hundred thousand and the other earned fifty thousand, I should charge two-thirds against the biggest seller and one-third against the smaller seller.

I did not do it in this instance because I think as I made clear in my report, I was informed that a different rule of accounting might apply in this case and that the profits derived from Doublemint might, from a legal standpoint, be considered as the last profits made, and therefore falling into the high bracket classes. If I may refer you to my report under that subject, I think I preface it by saying I regard this as a question of law and do not attempt to judically pass upon that question. My point of view is, I think, clearly stated on page 20 of my report.
7164 In my report and in my testimony I apportioned the Brooklyn moving expenses as of the date of the Government's sequestration of the Wrigley quarters. I would do that in the event that I were making the report for the Wrigley Company as between Departments. Of course, if I were called to make an accounting at the time when some matter is in medias res and I do not know what the final outcome in dollars and cents is, I should be obliged to do the best I could under the circumstances and make an estimate, but here is a case where long after the event the accounting is called for, and whether I were asked to make the account for the Wrigley Company or

for any other purpose I should throw back the loss when ascertained to the date when it occurred. The loss in
(4797) this case was occasioned by the Government commandeering these quarters and of course whatever the
7165 loss incident to this was should be thrown back to the date at which the loss was ascertained. I mean by that that I would throw it back if I were making an accounting to the Wrigley Company and there was no outsider and that without reference to the fact that at a later date and prior to my being called on to make the account the commandeering order had been rescinded, and that too, notwithstanding the fact that a year and a half or more later an appraisal to ascertain the loss had been made, all of these being aimed at ascertaining what the loss actually was.

The account as prepared by me is, of course, subject to a correction in respect to any amount which may be recovered from the Government as a result of that claim and my report so states. I will state that with a claim pending against the Government I would have treated this Brooklyn moving expense as of the date and in the manner I have treated it in this account, except that I
7166 should use every endeavor tind out what would be the proper recovery from the Government. I have so endeavored in this case and have been unable to obtain any information whatsoever.

In my investigation of this subject I did not go into the question whether the basis of the claim as a charge against the Wrigley Company in this case was the same as the basis of the claim made by the Wrigley Company against the Government. I may say that the basis is not the same, for the very obvious reason that the claim against the Government was made not very long after the seizure of the property and had therefore to be computed on a basis built up from the then known facts,
(4798) whereas the ascertainment of the loss arising from this cause for the purposes of the present accounting took place very much later, and when all the factors except the recovery from the Government were known.

I have no information as to whether or not as the facts develop to which I have referred the claim against the Government was amended.

7167 No other differences occur to me at this time in the

manner and principle of accounting under the supposition that I was seeking for the Wrigley Company to ascertain the gains and profits on the several gums manufactured by it during this accounting period, as different Departments of its business and the fact that this accounting is between the Wrigley Company and an outsider. The only two are the ones that I have already discussed, namely, federal income and excess profit taxes and interest on invested capital.

I regard the Brooklyn moving expense as a matter of equity to have occurred at the time when the premises were commandeered, but the amount of it, the ascertainment of such an amount was dependent upon some subsequent happening.

If, however, I am asked when did the Wrigley Company actually incur various expenses, and so forth, involved
7168 in this loss I would say that those occurred at various dates and all subsequent to the commandeering of the premises, and the nature and amount of them are set out in my report. I refer to statement 14-34 at pages 94 to 100.

As to what I mean in the tabulation referred to as statement 14-34 that the money was expended on the dates I have given there, I will say all the particulars in regard to the expenditures are shown, not on page 94,
(4799) but on the succeeding pages 95, 96 and 97. Those expenditures were made between the dates mentioned. Those are the names of the various contractors, and the expenses in question were incurred between the dates mentioned under the names of each of these contractors. I do not recollect whether I show by each of my tables there the date of the rescission of the commandeering order, but I think not.

There would have been no particular need if I were commissioned to ascertain the gains and profits of the Wrigley Company on the several brands of gum treated as departments of that business during the period named
7169 to compute interest on good will, but the reason for doing so, if it were done, would be to ascertain what were the profits earned by reason of the manufacture and sale of gum over and above the return which could have been got from the same invested capital, of which good will formed part, had it been placed in gilt edged securities

such as Government bonds or farm mortgages when no risk—no manufacturing risk or trading risk would be incurred. Some authorities do consider that no mercantile profits arise until the profits have exceeded returns such as would have obtained from investing capital in gilt edged securities.

7170 It will be understood that the good will I am referring to, and that I take it counsel is referring to, is the good will which the Wrigley Company purchased by the issue of its stock and which it carried on its books.

I understand that the supposition that is submitted to me, that I am ascertaining the profits for the Wrigley Company on the several brands of gum as separate departments of its business, assumes that the Wrigley Company has through many years established a business which it is conducting.

(4800) As to whether I consider that this interest of vest capital or tangible assets and interest on the good will is a part of or a necessary element in the cost of the merchandise, the profits of which you are seeking to ascertain, I will say I do on the theory that until an infringer or a manufacturer has earned profits on their invested capital which amount to more than they would have obtained had they taken the same money and invested it in gilt edged securities, until that point has been reached they have not made any profit from carrying on their business, that is to say, if they could have made the profit on gilt edged securities without any risk

7171 without any risk at all, they would have been foolish to go into business unless they expected to make more, and until they do make more in the sense they have not made any profit at all.

I do not regard this last answer to be a modification of my former statement that profits was the difference between cost and yield. I rather regard it as an explanation.

I do not wish to be understood that in making a report as an accountant generally to corporations and manufacturers, designed to show the profits of a business, that I always add before striking a balance and stating what the profits are the interest on invested capital and good will. It is not usual to treat interest on invested capital as an element in the cost under the conditions you men-

tion, but I want to make myself a little clearer on that point. Certainly where one seeks to compare the profits earned by two different businesses or two different de-
(4801) partments of the same business and would have to put them on a parity, if one business is doing the same volume as another but is doing it with fifty per cent of its own capital and fifty per cent of borrowed capital from a bank whereas the other business is carrying on entirely with its own invested capital, the usual, com-
7172 mercial practice would be in the case of the first business to charge as an expense of manufacture such interest as it had to pay out on its borrowed capital. Therefore, for purposes of comparison, you would get figures which were not on a parity and the only way to put them on a parity would be to either exclude all interest from your accounts before arriving at your profits or else to charge against the profits of both of them not only the interest they paid on borrowed capital but also a reasonable and similar amount of interest on the capital which they had themselves invested in the business, then you get both on a parity and can make a reasonable comparison.

7173 April 17, 1923; 2 o'clock p. m.

It is correct to say that the reason I gave for allowing interest on capital invested and good will was that I cannot consider the manufacturer has made an profits until he has passed such amount as would give him a return above the amount he would receive on such investments in his business if he had had them in first mortgage bonds or other interest bearing securities of undoubted safety. He cannot have derived any profit from the infringement of a patent or trade dress until in my opinion he has earned more on his invested capital than he would have done had it been invested in farm mortgage loans.
(4802) So in all infringement cases, I would add that inter-
7174 est on his invested capital and good will before I would admit that there would be any profits, and it would only be a sum that was above those figures.

If the Wrigley Company had invested its capital in farm mortgages or first class securities it would not have created any good will in so doing. As to why I then add interest on good will I will say because the good will in this particular instance of the Wrigley Company was

good will which they purchased and paid for and which they therefore employed in their business.

As to on what authority I make that statement I will say from the books and records of the Wrigley Company itself which show they did acquire from its predecessors in business their good will in exchange for capital stock.

I made a pretty careful investigation of that transaction some months ago. In that connection I think I subse-
7175 quently read the evidence in this case on that subject.

Some accountants make a distinction between what lawyers call a purchase and what we sometimes refer to as a merger. There is basically no difference at all between the two terms, but of course were I investigating the Wrigley Company on behalf of some one antagonistic to it in a case of a merger, I should of course want to be thoroughly satisfied that the stock issued in exchange for the good will was worth its face value before I would consent to have the good will considered in the accounting as being worth that face value. In the case of a purchase as distinguished from a merger that point does not come up for consideration because the actual pay-
(4803) ment of money by direct purchase is pretty clear evidence that the purchaser was satisfied as to the value and was giving the cash and he was satisfied it was worth that much. Where stock is given, of course, as I say, you have got to get into the question of the value of the stock itself.

I make the statement that there is no difference between a purchase and a merger basically, because both
7176 are on the face of it, I take it, aimed at exchanging one thing for another, and unless the transaction is brought under suspicion, one would naturally assume that the securities exchanged were worth their face value and so represented the price which the purchaser was willing and intended to give for what he acquired. That applies to both cases.

It is correct to say that in my experience as an accountant I know of no difference between the purchase of corporate property and the interest and the merger of such corporate property and interest, except the point I make, that you have to look with more care into the value assigned to such good will in the case of a merger.

(Mr. Aldrich then put the following question: "And

you would think where two corporations having close business relations the one with the other's, the one corporation being the manufacturer for the other product as well as manufacturing a similar article on its own account, if another corporation is organized to which the properties of both existing corporations are transferred, the membership or stock holdings in the two companies being represented by the same persons as held stock in
(4804) the two companies so merged or joined together, you would consider that transaction as equivalent to a purchase by a stranger or third party of the properties of both corporations and payment therefor?

7177 "You may in the answer to my question assume, in view of the thought of counsel for the Wrigley Company that this question may be considered ambiguous, that the two companies before the merger, as I have called it, took place did not have identity of corporate ownership, but that all stockholders in each of said original companies became stockholders on a proportion agreed upon in the new company.")

I do consider the transfer of good will by two individual companies to a merged company under the conditions described by you to be equivalent to the purchase of such good will by an entirely different corporation with the proviso that I have already made, that under such circumstances one must look into the bona fides of the transfer as regards value assigned. The law permits and the law provides that directors shall under such circumstances solemnly declare that the property transferred is worth its full face value, and so on and so forth, and certainly in the face of it there should, in my opinion, be no difference between such a transaction and the sale to an absolute stranger.

7178 I do not think that in the course of my examination I ascertained that in the original merger of these companies the seventy-five thousand shares of stock issued at the time such merger took place was on the books of the Wrigley Company carried as good will. But my an-
(4805) swer is not the best evidence on this point because
7178 this is not a thing I feel myself qualified to go into very fully, but my recollection is and an answer to counsel's question is that the stock was issued for good will, patents, trade name, trademarks, contracts and some other

intangibles, but they may all be covered by what has been said now, and the account carried on the books bore some general descriptive phrase along those lines, and as in the course of years the transactions were transferred from one ledger to another as one book got filled I did notice that the title to that account was from time to time changed, apparently just at the more or less whim of the bookkeeper, but the character of the assets carried in that account was always the same until, as I think is brought out by testimony, at some stage a separation was made between the value of the patents and the good will because there was a cleavage. I forget what the date of that was.

(Mr. Aldrich put the following question: "You did not understand that there was any cleavage, as you call it, made until after this accounting was ordered and it became necessary to file an account in this case?")

7179 The witness answered in the negative, and continued:

I am sure the entry was not made until after this accounting was in question, but I understand the reason for it was in connection with tax matters.

(Mr. Aldrich then put the following question: "I want to ask you as an expert whether, if you were preparing a statement for your client covering an accounting period (4806) corresponding to the one covered by this present accounting and in your investigation which you say you would feel called upon to make in such a case you found that the patents had been acquired by either one of the merging companies or by the new company into which the two original companies were merged under contracts for the construction of machinery at a stated price, which we will assume for the purpose of this question was $2500 per machine, in which contracts there was embodied a clause in substance that if any invention was developed upon which patents could be obtained such patents should be assigned to the purchaser of the machine for use in its business alone, all other uses to which such patents could be put being reserved to the inventor or contractor for the machines, and that a sum aggregating four thousand dollars or forty-five hundred dollars total amount was paid, one thousand dollars of it by one of the early merged companies and the balance thereof by the new company, after these entries on the books had been made

7180 would you as an accountant feel authorized to set up in a report, which you were making for your client for the purpose of issuing securities or obtaining credit at a bank, a statement that this company had capital invested in patents to the extent of $1,500,000?"

Mr. Mayer objected on the ground that the question did not correctly state the record or what the contract was, and on the ground that the question was incompe-
7181 tent and immaterial. The objection was overruled.

In such a case as Mr. Aldrich outlines in his question, assuming that stocks had been issued for patents and contracts such as he has described, I should undoubtedly set up as an asset the amount of the stock so issued as an
(4807) asset, describing it as patents, contracts, and so forth, issued in exchange for the like amount of capital stock of the company, and that would be on the asset side, and of course the liability in respect of capital stock would be correspondingly increased on the credit side of the
7182 balance sheet. Of course, in making a report to a bank or anything else, I should have a paragraph on the circumstances surrounding the issue of the stock, describing what had apparently been acquired for it and what its earning capacity appeared to be. Of course, I don't regard what was actually paid for it by the merged companies as having any bearing upon the question at all. As an expert, of course, I should try to put my client in possession of facts as to what its reasonable earning capacity would be as a justification for the stock having been issued.

I would treat such a transaction then as capital invested in patents fifteen hundred thousand dollars.

I have frequently made reports of that character and that, too, notwithstanding the fact that under the question asked me no such amount of capital had been actually invested in the patents, the point being that as an accountant I cannot see inside the mind of the purchaser. The best evidence to me of his intent is what he gave for what he acquired, and, as I say, tell the whole story and
7183 let the other person follow their own judgment about it. I could not undertake to say under such circumstances whether what was acquired was worth in cash the same amount as was given for it in capital stock unless I had before me very definite information as to the earnings

(4808) which had resulted for a period of years from the patents, contracts, and so forth, in question.

If instead of making a report such as I assumed I was making many years after the merger, I was called upon to make it the month following the merger, I would have no earnings to talk about at that time. Under those circumstances I would do just the same as though I found that a purchaser had acquired, let us say, for a million dollars in cash something which I personally regarded as practically useless. I could merely record in my report the transaction that had taken place. A purchaser has given a certain price for something. I am not expressing an opinion as to its value. It is something which in its very nature is a matter of personal opinion. I would segregate the item on the balance sheet, show what it is, and say what was paid for it, and how it was paid, and then I stop. I think my function as an accountant has been fulfilled and ceases at that point. If you ask me as
7184 a human being, that would be another thing.

I see no difference between a stranger making such a purchase, as I call it, and the parties who were concerned in the old corporations, and whom we have assumed are concerned in the new one, making or completing such a transaction as has been supposed, unless I were put upon notice of fraud or bad faith.

There is no difference between an independent person not before interested in the disposition of property and people who have been interested buying from themselves, being both buyer and seller, only to the extent that I repeated several times, that it does raise immediately in
(4809) one's mind the question as to whether they are acting absolutely and wholly in good faith in fixing that value. The transaction to my mind is the same.

Recurring to the Brooklyn moving expense, I will say my testimony this morning was to the effect that that transaction should be charged on the books and considered as a matter of accounting from the date when the
7185 sequestration order was issued. I choose that date instead of the date subsequent to the time when the amount of expenditures on account thereof has been ascertained, because the whole effect of accounting is to match up the expenses and income occurring in a particular period. Now, here in the case of the Brooklyn moving was a loss

which inevitably was sustained the moment the sequestration order went into effect. True the amount of it could not have been ascertained at that time, but the fact that a loss had occurred was immediately affected unless recovery might be had from the government and, therefore, if you can keep your accounts open until the definite amount of the loss is sustained, it is always the better accounting practice to throw that loss back into the period where the set of circumstances occurred which caused the loss. If you make a bad debt, for instance, you should charge it in the period when the sale was made except that as a matter of practical politics in the ordinary course of business very often you have closed your books and the loss is not really ascertained until some subsequent year, and you just charge it in that year because it is the most convenient thing to do, but theoretically it is better practice to charge it right back into
7186 the period when the sale occurred. That is, at the time
(4810) of the transactions. We accountants try to make the assumption that the government will do the just thing. It is often very difficult though in dealing with the Treasury Department. It is not entirely right to assume that if a party has a just claim against the government he will get his money. I have had too much to do with making government contracts and adjusting them myself to be willing to say that that is so. There are conditions under which you have not a chance in the world of recovery from the government although your transaction was made in the most perfect good faith and even with the consent of government officials. Take, for example, supposing you have contracted with the government and some unimportant employe of the government suggests to you that you really ought to insure your work that is under construction and you pay out money for insurance policies, that is, premiums. The government will not reimburse you because it is an absolute government rule like the law of the Medas and the Persians that the Gov-
7187 ernment will not allow insurance, and the government will carry its own insurance. That's a good example. You might paraphrase all you can, but there is no way by which you can get it.

I did not give any credit or provision for any credit here or change in the account based upon any valuation

of the claim against the government. I have assumed for the purpose of this accounting that not one penny will be recovered from the government. I do not positively assume that, but I put it into my figures and I say in my report that I have not taken into consideration any possible recovery that will be made merely for the pur-
(4811) pose that it is impossible to estimate what its amount will be. I wanted to make all the reservation that would be fair in an accounting between the Wrigley Company and the Larson Company. I think that wherever I am not expression my own opinion I so state and throughout it I tried to preserve the interests of the Larson Company in that way.

7188 As to why, in view of the fact that the Wrigley Company received $422,223.64 as a credit on its 1919 taxes, I did not make any adjustment of that in the account filed here I will say on page 21 of my report I point out that this credit is tentative and I have not therefore given effect to it in my account, but I do show which
7179 profits would be modified to that extent if this tentative allowance is finally confirmed. The allowance is subject to what is called sealed examination and is very likely to be upset. The Wrigley Company has sung their song at Washington and been tentatively allowed this amount, but when the embassaries of the Treasury Department get around to going over things with a fine tooth comb it is very likely that that credit won't stand.

As to whether I am meaning to express an opinion now as to whether they will or will not stand, I will say I do not express an opinion one way or the other.

May I say this, that in making up my account it is, of course, obvious that on every item where there were two alternatives possible I had to adopt one or the other because I was trying to make up an account and I have used one method and tried to mention what the other would be and what its effect would be, but I cannot give effect to both of them in the account.

(4812) It is correct to say that in my account as filed here
7190 I have charged against the Larson Company and credited the Wrigley Company with six hundred twenty-one thousand dollars plus on account of income and excess profits taxes. It is also correct to say that the six hundred and twenty-one thousand dollars plus is made up of

what I call Doublemint's proportion thereof put in the highest brackets on the total amount of taxes paid by the Wrigley Company in those accounting years.

It is also a fact as shown by page 21 that the Wrigley Company received a credit in 1919 on account of these same accounting years of the amount name previously of $422,223.64. It is a fact that it shows that that four hundred and twenty-two thousand relates to the whole business where the six hundred twenty thousand relates to part of the business.

7191 I would also like to point out that if this credit is finally allowed by the government, its effect upon the Doublemint account as prepared by me will be to increase the profits shown thereby to the extent of seventy thousand plus and not to the extent of four hundred twenty-two.

Four hundred and twenty-two thousand dollars has only been allowed in the sense that the Wrigley Company in making out its own return for 1919 takes credit for it as a deduction and nobody from Washington has come and had them arrested since, but I do not think they have Washington on record in writing that they in any way approve of this amount, this credit. I do not believe they have Washington on record as disapproving of it, either. And the Wrigley Company has received the ad-

(4813) vantage of that much money up to this date, but I want the master to clearly understand that any tax payer has a right under certain conditions to file a claim in abatement of these excess taxes and deduct the amount

7192 thereof from next year's return without incurring any charge of moral turpitude or wrong doing, and so on, despite the fact that on examination the claim may be proven to be baseless, and it is only in this way the Wrigley Company has got a credit in this case.

As to the basis on which this claim was made by the Wrigley Company, I will say I have not gone into that very much, but I think it mainly hinged upon the reserve which they set up for redemption of U. P. S. Coupons, and I understand the Government allowed them something in excess of sixty per cent whereas they had been using a figure around sixty per cent. I know they got something more than sixty per cent in this claim.

I do not say that it related exclusively to that, but I think that was the high spot in making up this abatement.

As to whether I made any examination on that subject or of the books or of the return which the Wrigley Company made, I will say I have not gone into them in sufficient detail to make me a competent witness in regard to them. I would rather put it that way.

As to why I did not follow the practice adopted in dating back the Brooklyn moving expense to the date of
7193 the sequestration order in my treatment of the Pulver transactions which took place in December, 1913, prior to the accounting period, I will say, there was a very dis-
(4814) tinct difference between the loss involved in the moving at Brooklyn and the sum of money paid to Frank F. Pulver. The Brooklyn moving was a positive loss which the company sustained and for which it got no compensating advantage. The Pulver transaction, as I understand it, consisted of an agreement with Mr. Pulver whereby amongst other things the Wrigley Company acquired from him certain trade names, his good will and an agreement that he would not engage in the chewing gum business in the United States for a period of twenty-five years, and this sum of money, $250,000, was to be paid to him over a period. Now, what I have done in the account has been to take the whole sum that was to be paid to him, deduct from it the value of anything tangible that we got from him in the way of actual machinery, equipment, and so on, which was very little, and take what was paid, the $241,000, and spread that over the period during which the payments were to be made, on the assumption,—and it is true you can argue, if you wish, it is on an assumtpion, that why they fixed that period for the payments to be made was that the Wrigley Company had in mind that any benefit they would get out of what they acquired from him would run out during that period. I think I mentioned also in my report that
7194 Marwick-Mitchell's suggestion that there was another method—they rather indicate that the method I have used might be adopted and they suggest another method—would be to capitalize the payment to Pulver and then write it off over a term of years.

As to whether I know of anything of value the Wrigley Company got from Pulver except the machinery account which amounted to about nine thousand dollars, I will
(4815) say so far as I am concerned, it is more gossip than

anything else, I have heard the subject discussed, I understand they got some lists of customers and that they did succeed to what business he had. I don't know what the extent of it was.

I have been informed that Mr. Pulver's factory was dismantled and the machinery shipped here to Mr. Dellenbarger and sold. I know that good will and such intangibles as there transferred amount to nothing except in connection with a business, but I understand that the Wrigley Company did acquire his business. I also understand that they did not do a great deal towards retaining it, but they did get what he had and moved the business here and saved what they could.

7195 As to whether I know that the Wrigley Company never put out any of the brands that Mr. Pulver was putting out, I will say I have no knowledge on that subject at all. I did not go into that.

As I say, I assume that the trade names and trade marks and so forth in the Pulver transaction must have been just what the Wrigley Company was willing to pay for them, namely, the difference between $250,000 and the sum for which they sold the tangible assets.

I fully understand that the settlement of a law suit was involved in the Pulver transaction. I have seen the statement made that a decree was entered in that suit after Mr. Wrigley had made the settlement with Mr. Pulver.

I read the first opinion filed by the Circuit Court of Appeals with reference to that transaction.

I think as an accountant under the circumstances that the value they got from Pulver as contradistinguished (4816) from the claim against the government which they 7196 still have pending at Washington justifies me in taking this into the present accounting dating from July 28, 1914, although I think the Brooklyn moving expenses should date back to the actual transaction. I think so as an accountant.

I did not put any tables into this record as a part of my testimony or as a part of my original report, Benington 1, for any purpose other than to help this master to ascertain the real gains and profits in this case.

As to who advised me that before allowing or striking any balance for gains and profits in this case that the

Wrigley Company was entitled first to deduct the manufacturer's profit of ten per cent, I will say that is a legal theory propounded by the attorneys for the Wrigley Company and I merely prepared the figures to show what the effect of applying the theory would be. It is not my own theory. That is to say, I did not introduce it into the account. That was one of the supplementary statements I think that was put in evidence the last time I testified.

7197 As to whether I think that a manufacturer's profits should or should not be allowed, as an accountant, I will say, I feel that that is a thing that is absolutely a matter for the decision of the master. In a number of cases of this sort with which I have either been personally con-

7198 nected or the decision in regard to which I have perused I find that in some cases interest on capital invested and in some cases a manufacturer's profit has been allowed, and I take it that it would be the duty of an accountant in a matter of this sort to submit the figures under each

(4817) theory so that the master has them and when he reaches his decision he can use them. I have not expressed an opinion. I do not know that I have an opinion as to the manufacturer's profit. Of course, a manufacturer's profit would not be made in addition to interest on capital invested as I take it. At least personally I had not supposed that to be so, but if one were disallowed, the other, as I say, might properly be considered.

(Mr. Aldrich then made the following statement to the witness: "I supposed when you offered in evidence in answer to questions by Mr. Wrigley's counsel a statement which provided for a reduction of ten per cent for a manufacturer's profit that you were offering it as in your opinion a just deduction to be made in that case.")

I cannot see how counsel for the Larson Company can draw that conclusion, because I offered a calculation of that sort at different rates. I could not have an opinion that ten per cent, twenty per cent and fifteen per cent were all just and equitable, but I think I recall that I offered them at the different rates, as I say, so that the

7199 master after he had made up his own mind could say, assuming I have now made up my mind, it should be eight per cent. He can pick out the figures which would show what it would be at eight per cent.

7200 The document which Mr. Aldrich describes as Bening-

ton 2 was merely prepared by me as a computation with the thought that it would be put in evidence by the attorneys for the Wrigley Company. It does not on its face purport to express an opinion in any way and I have not
(4818) expressed an opinion in regard to it.
7200 I am willing to express an opinion as an accountant whether I think a manufacturer's profit should be allowed.

(Mr. Aldrich then asked the witness as to whether he, the witness, as an accountant, thought that a manufacturer's profit should be allowed in such as a case as the
7202 present one. Mr. Lane objected. The objection was
7203 overruled.)

I repeat that I do not consider the question as to whether it should be allowed in this case is an accountancy question. I have also said that in my opinion as an accountant it should not be allowed in addition to interest on invested capital. As an accountant I have known of
7204 cases where the courts have allowed one charge or the other.

I would say that this is purely a personal view in this case. I do not think that I should be in favor of including a manufacturer's profit as a charge against Doublemint profits.

(Mr. Mayer moved that the opinion of the witness in regard to manufacturers' profits be stricken from the record because it was not a question of accountancy in the witness' opinion, because it was not cross-examination, and it was an attempt to substitute the witness' judgment in a matter of law for that which is committed to the master and the court. The motion was denied.)

I think it is very easy to reconcile the production of such a computation in regard to manufacturer's profits with my statement in one of the recent answers, that I had not presented any papers here or tables, computa-
(4819) tions, for any other purpose than to aid the master in arriving at the gains and profits in this case. In other words, to account for my having prepared the figures and yet maintain the attitude of mind that I have testified to. The master may be of the opinion that a manufacturer's profit is a proper charge, and I understand that counsel were going to introduce argument on the
7205 subject. I therefore, quite logically I think, placed in

the master's hands or attempted to do so, computations which would enable him to determine what the amount of such manufacturer's profits would be if he decided to consider it.

I should say that in accountancy gains and profits are synonymous. I do not employ the word "gains" in my practice. I have never given very earnest consideration as to whether there is a shade of difference in meaning.

I have read the decree in this case. I am aware that both gains and profits are used in that decree.

I can see that the employment of the two words might conceivably be designed to cover something a little wider than the actual heading "profits" which was recorded upon the books of account of the Wrigley Company.

7206 Not having a legal mind, I cannot say what the lawyers think gains and profits mean in law, but I can see that the phrase "gains and profits" is wider in scope possibly than profits by itself.

(Mr. Aldrich then put the following question to the witness: "Now, I have understood your testimony to this point to mean that in an accounting between one cor-
(4820) poration covering a given period and an outsider that it is not necessary to state the gains and profits and you would feel it your duty as an accountant charged with the duty of so stating it to deduct interest on good will value at the beginning of an accounting period, throughout the accounting period, and also to deduct interest on the capital invested both in plant and machinery, also in patents and patent rights, before you could ascertain the profits, is that correct? You may assume that I mean the good will as expressed on the books.")

That is not correct. That is to say, you do not I think sum up my testimony correctly. For instance, if a corporation is called upon to account for all of its profits to an outside party such as the Government for tax purposes, obviously no accountant would seek to first deduct interest on any of the property owned by the company, but these interest deductions are in my opinion proper where the accounting is of such a nature that the outside
7207 party is interested in the profits made by the company through its wrongful use of the other person's property, the underlying idea being that the wrong doer shall be allowed first a reasonable rate of interest on the value

of such of his money and property as he has used in carrying on business transactions the profits from which is claimed to belong to the outside party, and only after deduction of such interest does one arrive at the profits resulting from his wrong doing.

In this answer I intended to regard good will paid for in money or by the issue of stock as property on which interest should be allowed.

(4821) In my investigation as to the value of good will, concerning which I have testified, I read Mr. Wrigley's testimony as to how this good will was valued, but I must admit my recollection on it is not very clearly just now.

7208 As I have previously testified, as an accountant the thing that I should regard most in determining the proper amount on which to figure interest in regard to good will would be the sum of money paid for it. It would not be within my province to go into the good faith in which that sum was paid unless I were put upon notice of bad faith, and I have not conducted a judicial inquiry among the employes of the Wrigley Company on this line,—along those lines. I have assumed and I have good reason for assuming I think, but it has been an assumption, that the

7209 stock given for good will at the time of incorporation of the present Wrigley Company was issued in good faith prior to this infringement and that it was fully worth its face value and therefore it is just as worthy of having interest calculated on the item as though it were cash capital invested in the business.

I mean when I speak of a sum of money paid for it.

I would like to add this: In view of Mr. Wrigley's testimony that Mr. Aldrich quoted, viz., that this figure of $7,500,000 for good will, "was based on the fact that we expected to be able to earn dividends on that much money," I would like to say that I do not regard that as an improper method by which to value good will, in fact, that is the only basis on which a cash value can be set on good will. It has got to be based on the earning capacity of the business.

As to whether in my investigation I ascertained to what

(4822) extent the advertising done prior to the formation of the present Wrigley Company had been considered in fixing this common stock issue of $7,500,000, I will say, I, of course, understand it was incidentally considered

inasmuch as it is one of the factors that went to create the good will, but the basis of fixing that value was undoubtedly the earning capacity of the business as a whole, made up of whatever the facts are that contribute to that earning capacity, and the good will is fixed at an amount, as Mr. Wrigley says, on which they could reasonably expect to pay dividends and leave something over.

(4823) April 18, 1923. 10:30 A. M

7211 HAROLD BENINGTON, resumed the stand, for further cross-examination by Mr. Aldrich.

The advances to chicle growers is not quite similar to the Brooklyn moving expense. I have charged off the loss arising through the uncollectibility of these amounts, these advances to chicle growers, as of the date when the company became aware that the advances would not be collected, as soon as they received that information. That is the usual commercial practice as regards bad debts
7212 and losses of this character, and of course the amount involved is extremely small. In that connection I perhaps ought to correct something. I said yesterday in answering one of your questions relative to the Brooklyn moving expenses, I think I said that if it were possible to do so one would charge off a bad debt for merchandise supplied as of the date when the sale was made.

I want it clearly understood that that is not the commercial practice and it would be a refinement of accounting that is very seldom resorted to. The commercial practice is to do, as I did in the case of these advances to chicle growers, write off the loss at the first moment you become aware it has occurred. Now, that is the distinction I draw in reply to your present question between the Brooklyn moving expense loss and these advances to chicle growers. The company became aware that it would make a loss through moving its premises at Brooklyn the moment it was told to vacate. It did not become aware that it would make a loss of these advances to chicle growers until such time as they found out that these parties to whom the advances had been made were not respon-
(4824) sible and could not make good.

7213 I draw a distinction between knowing that you have

sustained a loss, and knowing the amount of it. If I run over somebody with my automobile, I know perfectly well that I have got a claim to pay there. The amount of it, of course, I don't know, but when I sell a man some merchandise I don't know that he will be unable to pay for it until such time as I definitely find out that he is not financially responsible. So I try to write off the loss in all accounting matters at the time when the loss, irrespective of its amount, has occurred.

With reference to the Brooklyn moving expenses, it is in a sense true to say that in view of the claim against the Government one is unable to know how much the loss is; but it does not alter the fact in my mind that when ascertained the loss should be written off as of the date
7214 of the occurrence which caused the loss.

The same principle does not apply to these advances because the date of the advances, as I see it, is not the date at which the loss occurred. These advances were made in the ordinary course of business, as I understand it, with the men who are listed on page 78 of my report. They did business continuously for years, some of them, with the Wrigley Company, maintaining a debit and credit account. They would be charged with supplies or money given to them and they would be credited with the chicle that they turned in and finally for causes that I am not acquainted with, finally at a subsequent date that was after a continuous business ranging over four or five years they arrived at a point where they could not settle up for the current account.

(4825) My understanding is that these advances were a live, running account, for a long time, running into a point in some instances pretty close to December 31, 1914. These
7215 figures that begin at page 78 of my report are the amounts of balances on current accounts resulting from the advances made exceeding the credits established by these parties. I have not gone closely into the details of the account.

As to why it is my opinion that this loss, whatever it is, whether large or small, should be apportioned between Doublemint and other brands on the basis of production instead of sales, I will say I do not know that I have a very strong opinion along that line, but we have apportioned on a production basis in this account, in view of

the fact that the accountants appointed by the court here seemed to think that, if it were to be included, it should be treated as a cost of production. You will find that Marwick, Mitchell & Company on pages 96 and 97 of their report suggest that if it is to be included, it should be treated as the cost of chicle during the season in which the advance was made.

7216 I am referring to pages 96 and 97 of Marwick, Mitchell, Peat's report, where this sentence occurs:

"The question arises: Should such losses be charged off in the period in which they were determined or should they be thrown back and added to the cost of the chicle obtained during the season in which the advances were made, the present accounting consequently only being affected by the increased cost of chicle gathered in those seasons used during the accounting period?"

I don't mean the master to understand that I have adopted Marwick-Mitchell's theory, but I say they injected the thought and when the question was raised the officials of the Wrigley Company said "Yes, of course,
(4826) we think it should go into the account, but now the idea is suggested it is true that the cost of gathering chicle is a cost of manufacturing and not a general overhead so when we put it in let us put it in as a cost of manufacturing."

It was my understanding that the Larson Company raised no objection to the Wrigley account so far as it gave the cost of manufacturing the gum in controversy
7217 and the price received on its sale.

With respect to good will I said that the number of years' purchase depended upon the stability of the business, the likelihood of being free from competition and the probability of its going on indefinitely. Of course, if such a thing were possible that we know a business would go on indefinitely, the number of years' purchase of its profits which a purchaser would be willing to pay for its good will would be much greater than in the case of a company whose business would eventually end.

7218 By the use of the word "indefinite" I did not mean that in all human probability the business would go on in perpetuity, and that such a condition was a prerequisite to good will being valued on such a basis. I meant that the price that the purchaser would be willing to pay for

good will if it were to be predicated upon so many times the earnings of the company for an annual period, would be more or less dependent upon the probability of the business continuing for a longer or a shorter period of time.

The history of the Wrigley Company itself raises in
7219 my mind a considerable doubt as to the permanency of a business built up through the sale of a specialty. It is very evident to me that the Wrigley Company's success
(4827) was to some large extent the result of its employing very large capital and getting sources of supply of chicle, and so forth, and thus putting its competitors at a disadvantage, and I can therefore see no reason why in the future, and even in the near future, somebody with even larger capital than the Wrigley Company should not turn the tables on it and put it at such a disadvantage that its earning power would be very much diminished and the bulk of its business might go to its new competitor.

An additional reason, based upon the fact that the public's taste may change, and they may discontinue using gum, is, of course, that the fickleness of the public is notorious. Take a thing like this Eskimo Pie which has been made such a fuss of in the last year. I think the public's taste can change almost every night when something new comes up. I don't know and you don't know that the public will always want to chew gum. Some other sort of sweetmeat may come up which will make people discontinue it, and it may even become bad form to chew gum.

Q. Have you any special qualifications or have you made any special study which enables you to express the opinions you have expressed with reference to the lack
7220 of permanency of the Wrigley business?

A. I have studied the subject very earnestly. As to special qualifications, I do not know that I have any better qualifications than anyone else for passing on that subject.

Benington 18 is not a reconcilation of the Hitchcock circular, which I have studied, and the reports made by the Wrigley Company to the Treasury Department of its gains. It is a reconciliation of the profits as shown by the books of account, which would not necessarily agree with the reports made to the Treasury Department.

7221 I do not recall that in the stock circular of F. B. Hitchcock & Co. there was the statement that the growth of the company had been predicated upon earnings beyond
(4828) the original $5,000 invested. I do not think I even read the descriptive matter of the circular. I simply took the financial statement embodied in it, and reconciled it with the books. If the record shows it is a fact that prior to the financing connected with the Hitchcock purchase no independent money had been brought into the concern, and that the concern's growth was based on the original investment of $5,000, I do not think it would change my testimony that I have given. It would, of course, tend to show that the good will created was extremely valuable.

I am not prepared to say that I have given any consideration to the dividends paid to the stockholders in connection with any matters contained in my report.

7222 I do not believe that I have given much attention to the annual earnings of the Wrigley Company prior to 1914. I took into consideration the earnings of the 3½ year period preceding 1914, but for the purpose of my studying and any inference that I drew I accepted the figures that had been used by the Larson accountants. My understanding was that those were the earnings before distribution of dividends to stockholders. I do not wish it understood that the amounts distributed to stockholders since the merger of the Zeno and Wrigley Company is not accessible to me, and that it may not be in the record. I only mean that my mind is absolutely blank in regard to it because I have not had occasion to consider those figures in connection with any accounting problem that arose in this case.

7223 The fact that large dividends had been distributed annually from surplus earnings of a corporation from the period of the merger, January 1, 1911, would of course have a bearing upon the question of good will, but I think
(4829) the true test, of course, is not the amount distributed, but the amount earned. With a growing business, of course, one may earn large profits but not be in a position to distribute them, and the true test, as I say, is "how much did you earn?" You may have put some of it back in additional equipment, and so on, and only distributed a part.

I do not know that it would have much bearing in my mind if all dividends declared and paid by the Wrigley Company have been paid from surplus earnings and they have been large dividends in each year since the merger of the Zeno and the Illinois Wrigley Company.

7224 I quite see the point, that the market value of stock, of course, is undoubtedly enhanced by frequent cash dividends and the market does not respond so actively to a statement that earnings have been made but not distributed. In that sense it has some bearing, but I go back to my original statement that I think the true test is the actual earnings made and not the amounts distributed.

It would have an effect upon my mind if I found, in the investigation of the affairs of a corporation whose good will I was investigating for the purpose of valuing it, that, in addition to earnings of from fifteen to twenty per cent. per annum over a long period of years it had added greatly to its surplus, but the additions to surplus mentioned, plus the dividends distributed, make up the figures that I am talking about, which is not the annual earnings.

I have made myself acquainted with the increase in the reserve or surplus of the Wrigley Company since the merger referred to on January 1, 1911. I cannot quote from memory the extent that such reserve or surplus has been increased since that date to the last statement made by the Wrigley Company.

(4830) I do not remember what has been distributed. I
7225 know and have taken into calculation the earnings of the company before consideration of dividends.

I know I am being asked as to the additions made to the surplus of the Wrigley Company or capital account since the merger referred to. I am not in any way trying to fence with counsel. I only want to explain. From a bookkeeping standpoint, of course, the additions to surplus consisted in any year of the profits attributable to that year plus any extraordinary credits that might accrue to the company and then less any special losses or any distributions by way of dividends, and the only things that I can take into consideration have been the additions to surplus due to current earnings of each year. As to whether I embraced that in my report, and if so in what statement it is to be found, I will say, for the moment I do not recollect having included anything in my report.

I regard this subject as one more for argument by the attorneys.

As to whether the elements to which counsel for the Larson Company have directed my attention are necessary elements to be considered by an expert who assumes to pass on how many years' purchase should be given in
7226 valuing the good will of the Wm. Wrigley Jr. Company, I will say I think I have made my position quite clear in my report. My view is that no expert is in a position to value the good will with any degree of nicety of any business. All an expert can do is to ascertain for you the factors to be considered and then place before the willing purchaser and the willing seller those facts and let them just get together and have a horse trade and decide how much they will actually put the deal across for.

(4831) I am aware that it has frequently become the duty of courts for the purpose of ascertaining the value of property left or of interest in property as evidenced by stock, and so forth, to determine the value of the good will of a business; but I see a very important distinction between a court putting an arbitrary value upon something for the purpose of then assessing over all a small percentage thereof by way of taxes and on the other hand somebody undertaking to put a value upon something for which an unwilling purchaser is going to be asked to pay one hundred cents on the dollar. The two things are different.

(Mr. Aldrich then put the following question:

You draw then, for the purposes of this discussion or your evidence in this case, as I understand you, a distinction between the value of stock in a corporation for the purpose of levying inheritance or succession taxes there-
7227 on,—where an investigation is necessary in ascertaining the value of that stock to go into the question of the value of the good will of a corporation which issued the stock from the case of a person injured who is suing for the redress of his injuries, you think different rules should be applied, do you?)

The Witness (Continuing): I do, because in the first case you mentioned of course the court is in a position of being able to act arbitrarily. The owner of the stock can after all merely advance arguments, but the decision lies with the court. Wait a minute. I think I would like

to correct that whole answer. I would like to have you read that question again. It is a lengthy question and I got mixed on it.

(4832) I will state what my answer is now. I would say that the same rules should be applied assuming that the value of good will has to be determined in both cases. The previous testimony, however, was along the lines of pointing out that where all the factors for consideration have to be presented that after they are presented in my
7228 opinion there is no rule of accounting or rule of law by which those factors can be assembled and a figure determined which would logically and inevitably be accepted by every one as correct. My point is that as a final result of the presentation of the facts it still remains for the party adjudicating the matter to make up his mind and that he necessarily is to an extent making a guess, whereas, contrasting such procedure with the purchase for cash by a willing purchaser, the case is different. There is no question as between a willing purchaser and a willing seller as to their both being of one mind; where the value of good will is being determined as between litigants, of course, the decision will inevitably be unsatisfactory to one or the other; between the willing purchaser and seller they both agree.

Even in the case of a purchase and sale by bargain between parties subsequent acts may show that one or the other guessed wrong, but they were of one mind at the time the deal went through. That is the point I am trying to make.

I withdraw the statement that where a court decides a question, whether it be in the case of a succession or inheritance tax, or whether it be in the case of a person who has been injured seeking redress for such injuries, one or the other is certain to be dissatisfied. They might
7229 both be satisfied, but the point I am making is that after both of the parties have presented to the court all of the
(4833) factors which they think should be taken into consideration as enhancing or detracting from the value of the good will, then it remains for the court to arbitrarily determine the amount, and I do maintain that there is no expert or class of experts who can qualify as being able to say that after taking this into consideration the value is so and such.

7230 I will positively say that I would not undertake as an accountant or a business man to determine the value of the good will of any given business even after presentation to me of all the supposed pertinent facts. I would only put myself in the position of advising my principal as purchaser or seller. In other words, if my principal were considering the purchase or sale, all I would feel competent to do would be to keep pointing out to him what he ought to take into consideration and he would have to be the sole judge of the amount that he would give or take.

If the court called me as a witness in such a case as the Tiffany case, where Mr. Charles A. Moore had $5,000 of Tiffany stock, and the aim of the judicial investigation was to ascertain the value of that stock, which necessitated the ascertainment of the value of the good will of the Tiffany Company, I would, if I were appointed arbi-
7231 trator between two contending parties in such a case, and they agreed to abide by my decision, not refuse to fix a value, but I should make it clear to the parties that I was merely making an intelligent guess, that I did not pretend to be so qualified that the value I fixed was the scientifically ascertained value, but merely an intelligent guess based on the facts and figures presented.

I would not decline to testify in such a case, but I would decline probably to express an opinion as to the actual amount which should be paid for the good will. I remem-
(4834) ber the case you speak of roughly and my testimony
7232 would run along the line that, owing to the very long life and stable business, the value of the good will was very considerable. I do not know how much further my testimony would go, because I would have to go into the surrounding circumstances.

I do not think it is correct to say that in this present case on direct examination I ventured to express an opinion that three years purchase was a reasonable purchase in this case. I have not read my testimony since I gave it except the day after. I probably said it was more reasonable than some other figure suggested.

I produced here a computation running from two to nine years, showing what it would be if either of those figures or any of the figures intermediate were used as a multiplier. I do not recollect that in connection there-

with I expressed myself on that subject in favor of the three years purchase. I do not wish to be understood as undertaking to fix a three years purchase as being the scientific and only method of valuation.

7233 In valuing the good will of a business, or the increase in the value of the good will of a business, between two stated dates, in addition to the earnings of the years prior to the period in question, the earnings of that period, and any subsequent earnings, I would, of course, have to go into the conditions the business during each of those three periods, as to whether it was a time of normal prosperity or business depression. I should want to go into the question as to whether there had been changes in the management of the business during those periods, as to whether there had been a distinct change in policy, whether advertising had been very largely in-
(4835) dulged in during one period and not during another, and I should then also have to take into consideration at the end of the period or as of the date of my investigation the prospects of the business continuing to be as pros-
7234 perous as in the past, and the probable or possible competition which would have to be met in the future. I should have to consider, of course, whether the profits of the first period had been increasing in the same geometrical or arithmetical ratio as in subsequent periods, whether the trend of the business was steadily upward or whether it was at any period downward or whether it remained stationary, and I should have to take into consideration any unusual circumstance surrounding the business which might have a bearing upon the question of good will.

On the products taken as a whole, I have found in my investigations that there has been a steadily increasing volume of sales on the part of the Wrigley Company, from year to year; and I have found there has been an increasing volume of profits from year to year.

It did occur to me that the war time period was abnor-
7235 mal. I believe it is true to say that I found that since the termination of the war the figures or earnings of the Wrigley Company have shown an increase over that period. I shall have to correct my last answer. I have not made any definite investigation as to what the profits since the accounting period were.

7236 I haven't any reason now to say that the subsequent experience of the Wrigley Company justifies the impression that the war period was an abnormal one as affecting the affairs of the Wrigley Company.

7237 My doubt about the permanency of the Wrigley Company, and its continued prosperity, is based upon the supposition that there may be a change in the taste of (4836) the public with reference to chewing gum, or that there may arise a competitor with more money than the Wrigley Company, or a better article; and another factor, the uncertainty as to whether the management of the Wrigley Company will remain in the same hands. I have no reason to anticipate any change in the management of the Wrigley Company.

As to whether in the course of time some changes will naturally take place, I will say it is a habit that a purchaser would certainly have to take into consideration.

7238 I understand that the valuation of a block of stock in the Wrigley Company might require an investigation of the value of the good will of that stock. As to whether I understand that the valuation would be fixed as near as it could be with the best evidence obtainable as of the time when a decision as to such value was to be made, I will say I do not quite understand the phraseology. One would be determining the value of the stock as of one date, at a later date.

One would necessarily be determining the value of the stock or good will, say, at June 1st, or some subsequent date, let us say December, and one would take into consideration no factors which had arisen between June and December in determining that value as of June. I want to make that quite clear. I did not know whether you were asking me whether or not the value was to be made in June whether I should exclude from my mind anything that subsequently happened between then and the date at which I was called upon to make a valuation. And I mean 7239 if the president of the company had died or something of that sort, I should undoubtedly have to take that into consideration to some extent.

In valuing the good will of the Wrigley Company, I am aware of the fact that the personnel of the management, (4837) in the main, of the Wrigley Company, has remained unchanged since January 1, 1911.

As to whether the policy of the company with respect to advertising, and its treatment of its customers will remain the same policy, I do not think I am qualified to testify on that point. I have investigated the advertising account enough to know that they carry on a very extensive advertising campaign annually and continuously. I simply have not gone into the question as to whether there has been any change in the policy of the company with respect to advertising during the period. I see what they have spent in dollars and cents, but whether at one
7240 time they were stressing, say, street car advertising, and another time they were stressing billboards, and whether at another time they were stressing the personal work of detail men, and so forth, I simply do not know. I have not gone into that.

Undoubtedly during the accounting period the Wrigley Company has been pursuing the broad policy of continued publicity, with growing intensity. In making such a valuation I have not during the course of my investigations found anything to indicate that in deciding this question any change of management or policy is imminent.

As to whether I understand that in giving opinion evidence it is the aim and duty of both the witness and the court to consider known facts so far as possible, and not go into the realm of speculation for which no known fact in the record furnishes a justification, I will say I do not know that I am prepared to commit myself as entirely assenting to that. I should not suppose that the master or the witness would be debarred from giving some con-
7241 sideration to something which involved entering the
(4838) realm of speculaion. He should, of course, give the greater weight of his attention to the known facts and evidence, but the other might be very important and could not be left out entirely from consideration. It seems to me in a consideration of this good will subject that that is the main stumbling block. There are almost an innumerable number of elements which require consideration and many of them are not capable of expression in terms of dollars and cents, and even if they are, their interrelation to each other is very hard to establish.

It is undoubtedly true that in considering the question of good will and its value, matters of good management, honest, fair treatment of customers, so as to have

and keep satisfied customers, and the observance of those principles of business policy necessary to the successful management of a manufacturing corporation, are elements to be taken into consideration.

I understand that when courts are called upon to determine questions, they reach a decision from known facts, or if not absolutely certain as to any particular
7242 fact, they consider the evidence and then determine what is the probable or necessary inference. All I meant in that connection was take a thing like a powder factory, for instance, which has been exploded, the court in fixing the good will of that business would not allow itself to be guided only by the profits earned and other facts submitted, but would necessarily take into consideration the very probable hazard of the complete plant being destroyed at an early date. That's just one illustration I mean of a hazard, that is entering the realm of speculation but cannot be left out of consideration, of course.
(4839) I mean by that, the character of the business has to
7243 be considered, whether it is hazardous or otherwise. I would also consider whether a business was hazardous as affecting a change in public taste, or whether there was a movement on foot to shut it off by operation of law, or by tariffs, or something of that kind.

I do not find more elements of hazard or risk in the Wrigley business than are inherent in every manufacturing and merchandise business. With the exception of the risks I have referred to, the risks of the business can be largely covered by insurance and indemnity.
7244 I consider a ten years' purchase of the Wrigley business unreasonable simply because in my opinion ten years is an enormous distance to attempt to look into the future. I withdraw that. I consider a ten years purchase of the Wrigley business unreasonable, simply because the sum arrived at by multiplying the profits of the past by ten is altogether larger than I would consider a purchaser would be wise in paying, in view of the hazards surrounding business of any kind and this business in particular, and more particularly because the average annual profits on which in this case it is proposed to predicate a ten years' purchase were earned during a period which it is conceded by every one was a period of unusual prosperity as within the next ten
7245 years, according to the experience of the past, we are certain to strike a patch of business depression which

would inevitably affect the earnings of the company detrimentally.

As to whether we have not in fact been going through a period of liquidation and hard times since the conclusion of the Armistice or soon thereafter, I will say, we
(4840) have been going through a rather extraordinary business period which is peculiar in this respect, that every one, and particularly the man in the street, who chews gum entered the period with a full pocket and in my opinion the pocket is not quite empty yet. The business depression of which you speak, in other words, in my opinion has merely affected up to the present the big corporations by reason of shrinkage in their inventory values and that sort of thing and has not to any large extent reached the worker whose wages are as high today on the average as they were at the date of the Armistice or higher.

I do not pretend to be thoroughly informed on the question of unemployment, but so far as my own experience goes there has not been an awful lot of unemploy-
7246 ment up to now. I do not think this period, from anything I know, has injuriously affected the Wrigley Company.

(Mr. Aldrich then asked the witness whether it is not a fact that the stock market price of the Wrigley Company has reflected a valuation that would extend over a ten years' purchase. Mr. Mayer objected. The objection was overruled.)

The Witness: (Continuing): I believe that the quoted market prices would justify the valuation of good will on
7247 a ten years' purchase, but I want to point out that I do not consider a really free market to exist in the Wrigley stock. In other words, what I mean is that if a block of 5,000 shares of Wrigley Company stock were offered this morning, it would change the market quotation immediately. That is only an opinion, of course.

I mean by that that I think that the stock is not so generally dealt in as to create a real staple market quota-
(4841) tion. True broker will quote you a price, but if I try to sell ten thousand shares at that market price, I should be unable to do so in all probability, or to buy at that price. I state that because it is closely held, and therefore you cannot predicate in my opinion much upon the quoted price.

7248 April 18, 1923. 2:00 P. M.

Mr. Aldrich asked the witness the following question: "Q. I call your attention, Mr. Benington, to Benington Exhibit 19, being the report of Doublemint gum enclosed in special counterband wrappers which did not bear the following imprint, and then follows the imprint which is pasted on the front of your report, 'Made by the manufacturers of the famous Spearmint. Chicago, New York, Toronto, London', and the script name of Wm. Wrigley Jr. Co. In making up your report have you assumed that the gum in controversy in this suit and upon which the decree is based did have or did not have on the counterband wrappers the words which I have read from Benington 19?"

I assumed for the purposes of the exhibit to which Mr. Aldrich has referred that the profits to be accounted
7249 for were those derived from Doublemint gum which did not bear the panel, the wording from which Mr. Aldrich has just read. As to whether I was so advised by counsel of the Wrigley Company, I will say the theory is not my own. It is a theory propounded by the attorneys for the Wrigley Company.

(Mr. Aldrich then stated to the witness that he did not think the witness had quite caught the purport of the question. That while Mr. Aldrich had called the witness' attention to Benington 19, the question had reference to what the witness had understod was the gum which was adjudged by the decre and the counterband used thereon. The witness said that he had not understood the question that way, whereupon the question put by Mr. Aldrich at the beginning of the session was re-read to the witness.)

(4842) To answer Mr. Aldrich's question as he has further
7250 explained it, I would say I made no assumption whatever. The sales of Doublemint gum as contained in the account filed by the Wrigley Company, as I understood it, were accepted by you and I did not therefore go into the question of their character or the counterband surrounding them or anything else relating to that. I understood that that point had been agreed upon.

(Mr. Aldrich then stated that Mr. Benington's answer did not quite answer the question. Mr. Lane objected to this statement "because the way the question is put

he asks him when he makes up his report. Now he calls attention to two reports, the one being Exhibit 19 and the other a general report." Mr. Aldrich then said: "In view of the fact that Mr. Lane is confused as to the meaning of this question I desire to state to you, Mr. Benington, that my question refers to Benington report 1, Wrigley 92; Benington 1. I would thank you to now answer the question."

Whereupon the witness requested that the answer he had already given be read. This was then done.

Mr. Aldrich then said: "I do not think it answers the question so as to leave no room for doubt. Do you mean thereby that Benington 1 deals principally with gum wrapped in the counterband which has been quoted in my first question.")

The witness continued:

I can only repeat, Mr. Aldrich, that I do not know from
7251 personal investigation. I was told, and the record so shows, that these sales in dollars and cents and quantities have been accepted as being the number and value of the package of Doublemint to be accounted for and I accepted them as such and went no further. As to whether it was my intention, so far as I understood it
7252 from the instructions received by me at the time I prepared Benington 19, to assume that all Doublemint gum except such as is referred to in Benington 19 was wrapped in counterbands containing the panel on the first page of Benington 19, I will say it was my intention to assume, and I did assume that with the exception of the
(4843) gum specifically accounted for in Benington 19 the remaining sales of Doublemint were enclosed in counterband wrappers which did have on it a panel bearing this language "Manufactured by", and so forth.

Referring to my statement that I thought it was logical to distribute advertising according to sales, I said it was illogical, because the whole object of accounting, especially cost accounting, is to determine what was the exact
7253 cost or expense per unit for the purpose of contrasting it with the gain per unit and thus arriving at the profit per unit. Now, the advertising expense is incurred with the object of trying to increase the sales. It is incurred during a particular period with the idea of increasing the sales of that period. Supposing it utterly fails in its result, it still remains to be an expense chargeable

against that period. Therefore, if it has to be apportioned over various brands or departments, it should not be apportioned, in my opinion, upon the basis of the sales obtained by those departments, but it should be apportioned according to the actual advertising expense or effect put forward in respect to each of those departments; and to do otherwise appears to me to be illogical. I might go a little further. Supposing one had only two brands of gum and the advertising expense in respect of the two together in a given year was a million dollars; supposing one succeeded in selling $3,000,000 worth of one brand of gum, and only $1,000,000 worth of the other brand of gum, it would appear to me to be very illogical to say that three-fourths of the advertising expense should be considered as having been incurred in connection with the brand of gum on which the larger volume of sales was obtained, because on close analysis it might well turn out that as a matter of fact of the million dollars worth of advertising expense incurred, $500,000 was
(4844) very definitely and specifically incurred in respect to each of the two brands concerned, and that the expense should therefore be divided half to one and half to the other. Both methods cannot be logically correct; one must be less logical than the other; and where one can ascertain exactly in respect of what brand an expense has been incurred one should do so and not resort to some method of apportionment which in its very nature would be an approximation.

I am of the opinion that the amount spent on Doublemint advertising can be ascertained, not with absolute final exactitude, by the methods under and set out in Benington 1, but with a much greater degree of exacti tude than would be obtained by dividing the total advertising expense on a sales basis. I want to explain that a little further. When you go into the fine details of how this advertising has been allocated by measurement, and so forth, as used in Benington 1, there are a few minor points where a group of expenses have had to be divided on some basis other than exact measurement, but those instances only relate to items of minor importance. The bulk of the expense paid very definitely and
7255 accurately has been apportioned between Doublemint and the other brands advertised.

When I referred to "minor items", I had in mind, I

think, the amount charged for detail men which, of course, is not allocated between Doublemint and other gums in proportion to space, it has been allocated on a basis in regard to which Mr. Stanley has testified at full length, but it is not strictly a measurement basis. That's the principal one I have in mind. Possibly by refreshing my memory there might be others.

In other words, I had in mind the question between the
(4845) divisability of advertising, which is actually measured, and such items as detail men, which in the nature of
7256 things is not susceptible of measurement by rule. I do not include service charges for putting up the ads, in these exceptions to the measurement rule. I do not, because I think that in almost every instance follows closely the display matter, and is properly apportioned on the same basis as the display matter itself.

In making the statement with reference to space, and the measurement of such space, I do not know that I have given any particular consideration to the prominence of the word "Wrigley's". Of course I am perfectly familiar with the Larson Company's contentions in regard to the prominence in regard to the word "Wrigley's"; and my statement holds good, even were the master to share your view. In other words, whatever theory were to be adopted in regard to the word "Wrigley's" it is capable of measurement and separate treatment in the calculation of which I speak. It would still
7257 be allocating the advertising on a measured space basis, which I contend is infinitely more reliable and accurate than any attempt to divide it simply in proportion to the sales. Of course, the views of experts along advertising lines have already been received in testimony as to how that big word "Wrigley's" should be treated, and I do not suppose that my views on the subject are sought by you at this time.

My understanding is that in allocating the cost of Larson Exhibit 48, the amount charged to each of the three brands would be arrived at by actually measuring the
7258 picture of each of the packages displayed, and then proportioning the cost of the whole poster against them in that proportion.

As is pointed out, the Spearmint package is some-
what smaller than the others, and if they have strictly
(4846) followed their theory, as I have no reason to doubt,

they would have in that case assigned a shade more of the costs to Doublemint than they would to Spearmint, for the reason that the package is somewhat larger.

I have understod that in the accounting the Wrigley Company disregarded entirely the word "Wrigley's" in
7259 such advertisements. I mean that the cost of the big word "Wrigley's" has been absorbed in the charge made to each of the brands of gum named in the advertisement, the theory being that in every case it is Wrigley's Spearmint, Wrigley's Juicy Fruit or Wrigley's whatever the brand is that is being advertised.

Undoubtedly the word "Wrigley's" in that advertisement strikes the eye more prominently than any other word. I understand that the principle that I have stated of division of expense for advertising as applied to this advertisement, Larson Exhibit 48, is true of the entire class of advertisements.

7260 I have not made any independent measurements of advertisements. Whatever figures I have alluded to in my report have been derived from the measurements actually made by the Wrigley Company's own employes. I went over their figures in certain test cases, to satisfy myself that the thing would work out, that there would be no missing links in the chain of evidence, and I was saitsfied that the thing could be worked out, and I thereupon ceased to make any further verification and relied upon the work done by the Wrigley Company's employes and have so clearly stated in my report.

I am referring exclusively to the figures prepared by
7261 the Wrigley Company supporting those used in my report, Benington 1, and which were compiled on what the Wrigley Company's counsel have described as the New York method, and which I have just described as apportioning the total cost of an advertisement in proportion to the space occupied by the package, logatype and reading matter specifically relating to the brands.

(4847) Referring to Larson Exhibit 48, if we assume for the sake of illustration only that the Spearmint package is one-half as large as either the Doublemint or Juicy Fruit package, that advertisement for the purpose of apportionment would be divided into five parts, and one-fifth would go to Spearmint, and two-fifths each to Juicy Fruit and Doublemint.

In the figures used by me in the compilation of Ex-

hibit A to my report the cost of the word "Wrigley's" has been absorbed amongst the various brands according to the method that I have just described in my previous answer.

7262 I am aware that Mr. Stanley compiled figures to show what the result would be of deducting or stating separately the cost of displaying the word "Wrigley's" in the large type. I have not taken it into consideration in the preparation of my Exhibit A.

As to why it would not be as fair to measure only the space that the Doublemint package occupies in Larson Exhibit 48, and charge the cost of everything else to the Wrigley Company and to the other brands named, I will say the plan so suggested appeals to me as being extremely illogical and unfair because the object of the poster is to draw attention to the brand of gum to be sold. The Wrigley Company will, of course, not make a single dollar by posting a picture of a service man grinning over the top of an oval. The object of the picture of two men which occupies quite a large part of the space

7263 is to center attention upon the merchandise which is to be sold and which consists of three particular brands, and if the advertisement succeeds in its object of attracting the attention of a particular buyer and exciting him to the point of going in and buying a package of gum, it

(4848) is to be presumed that it would be one of the three brands mentioned, and therefore the cost of the whole of the poster should be equitably divided amongst those three brands in finding out what the advertising cost of selling them was.

(Mr. Aldrich then put the following question: Have you in making your last answer taken into consideration the fact, which I assume to be the fact, that the prominence given the word "Wrigley's" and the other word "Doublemint" through the expenditure of between eight and nine millions of dollars during the accounting period builds up a good will in connection with those two names?

On Mr. Mayer's objection, Mr. Aldrich added to the question the following:

7264 In asking this question, I am referring to the total expenditure for advertising during the accounting period, and the fact that the name of Doublemint was associated with the other brands, Spearmint and Juicy Fruit, is explanatory.)

The Witness: (Continuing): It seems to me that counsel is now introducing a new matter; but his previous question, if you remember, to me, was, would it not be equally logical to a method I have just described, "Would it not be equally logical to only charge to Doublemint the exact space occupied by its package and charge the whole of the remaining space to the Wrigley Company and to the other brands?; and I made my reply. I do not see how there could have been any necessity for the consideration of the point now mentioned in making that reply.

I want to explain that I said in my answer to the other
(4849) question that the whole cost of the advertisement should be equitably divided amongst those three brands. My reply does not exclude the possibility of special consideration being given to the big "Wrigley's", but I said the object of the advertisement as a whole was to sell one one of the three brands, and its cost should be equitably divided amongst them.

7265 I have the matter fully in mind that the Wrigley Company retains the name "Wrigley's" and the name "Doublemint" and that nothing in the decree in this case divests the Wrigley Company of either of those three names. And, so as not to appear disingenuous, I want to say at this point that I consider that we are now discussing how the advertising shall be apportioned. I regard that as a separate and distinct matter from the consideration of good will. I fully grasp your point, that the display of this big word "Wrigley's" may contribute to the establishment of a good will for something. I do not say it is for Doublemint, but it is for the Wrigley Company. I am just trying to make my position clear, and that therefore, if the question of good will has got to be considered, it has to be considered separately from this question of advertising which is built up from a number of factors. If you can find out what the good will created is worth and can then establish to the satisfaction of the court that Doublemint has a share in it and how much that share is, that is to my mind a separate argument, but we are now discussing how the cost of a certain advertisement shall be divided. That advertisement in itself is designed, as I see it, for one object and one object only, and that is to sell gum to the public. There are

7266 three brands of gum displayed in the Exhibit that you are drawing my attention to, and my feeling is that therefore the cost of the display matter must necessarily be (4850) charged against those three brands of gum in such proportion as is equitable under the circumstances.

As to whether it would not be just as logical to charge Doublemint in respect to this advertisement, Larson Ex-7267 hibit 48, the space occupied by the package of Doublemint, as it would be to only charge to the big word "Wrigley's" the space actually occupied by those letters, assuming that is to be separately calculated, I will say, I think there would be some lack of logic in just measuring those letters and disregarding the facts that they were surrounded by a considerable amount of ornamentation, and so on, and then in ascertaining the amount chargeable to Doublemint to take cognizance of that surrounding matter.

As to whether I mean that any rule which would just measure "Wrigley's" in the way just described would require logically that Doublemint should be measured in the same way, I will say, possibly.

7268 I want to say, at this stage, that, however, the cost of the space devoted to the prominent display of the word "Wrigley's" is measured and priced, in my opinion that amount would then or should then be distributed over the various brands of gum displayed. It is all, as I see it, part of advertising those brands; but you are asking me questions on the assumption that it has to be separately segregated for some purpose. I don't know what that purpose is, and I am not going on record as stating that in my opinion it requires separate segregation. I just want to make that clear.

What I am aiming to do is neither to make statements of account that will give the Wrigley Company profits if there were none, nor am I seeking to make statements (4851) here that will prevent Larson having profits, if there 7269 are any. I am testifying on principles, and disregarding what the result of their application would be.

I will admit that the Wrigley Company's advertising, as commercially judged, has been successful.

I recall that I stated on my direct testimony that it was illogical to judge of how one should divide the cost of the effort by the result obtained. As to whether the fact

that the Wrigley advertising as a whole has been successful therefore makes the Wrigley advertising situation not comparable with the instances that I suggested in my
7270 direct testimony, I am not prepared to say. The account which I have now prepared shows that, as regards Doublemint, in several of the fiscal periods occurring during the accounting period, the result of manufacturing and selling Doublemint was to cause the company a loss. Therefore, so far as Doublemint was concerned apparently the advertising campaign was not successful, or if it is to be regarded as successful, that success was off-set by other features. I, of course, have not made or seen the figures compiled as to the cost of advertising any brand except Doublemint. The Company has from time to time introduced new brands on the market, advertised them very extensively, and with what success I do not know. At the present time I do know they are spending a great deal of money on advertising P. K.'s, and I do not know how they are coming out on a profit basis; it is a new brand.

I know that the Wrigley advertising of Doublemint was of the same character as was used in connection with Juicy Fruit and Spearmint. I am given to understand that in the general advertising through the entire portion
(4852) of the accounting period, Doublemint advertising was
7271 stressed, in principle, just as P. K.'s are now, and Juicy Fruit was at a later date than Doublemint.

I believe, broadly stated, the advertising of Doublemint was of the same character, through the same agencies, and in the same form as the advertising of the other brands; but I have not gone into that personally with the object in view of determining that factor. I am speaking from very general information. I have no reason to suppose otherwise.

As to whether the deficit which I referred to as occurring in the early stages of Doublemint arises purely through my system of allocation, I will say I cannot say yes or no to that. If the advertising had been allocated on some method that would be very much more favorable to Mr. Larson, it might have resulted in a profit being
7272 shown for those periods, but of course there are all sorts of other expenses entering into the account for the period in question, and to say that the loss results en-

tirely from the method of allocation of advertising is altogether too broad a statement for me to acquiesce in. I believe it is correct to say that if the allocation were made on a basis of Doublemint sales to the sales of all other gum manufactured and sold by the Wrigley Company in the proportion of such sales that there would be no period of the accounting that would show a deficit.

I am not desirous of being understood that the large expenditure of money and advertising the words "Wrigley's" and "Doublemint" did not add to the value of the Doublemint gum as a brand. In fact I think it undoubtedly did add to its value, but how much I do not think can be determined by any method of allocating the cost of advertising.

(4853) I am not here for the purpose of denying that the ex-
7273 penditure of the amount charged in the Wrigley accounting for total advertising expense during the accounting period did not advertise the value of the good will of the Wrigley corporation. I simply say that I am unable to say how much was added to good will by such expenditure. I understand that this decree merely took away from the Wrigley Company the right to sell Doublemint in the particular dress, which dress is alleged in this case to create the profits and which it is sought to recover.

As to how, if I were the accountant charged with the duty of ascertaining what in justice ought to be charged to Wrigley, and credited to the Larson Company in this accounting under the decree, in view of the fact that these values had been created for the brand and the good will of the Wrigley Company, I would give the Larson Company the benefit of such values, I will say, of course the question that clouds the issue here in my opinion is that you are asking me whether I would attempt in making such an account to ascertain what was, as I understand it,
7274 the good will created during the accounting period for the Doublemint gum sold in the enjoined dress. In other words, what was the good will which could not possibly continue after that dress was discontinued. I do not see that I could or should give the Larson Company any credit for a good will created—to repeat myself—for Doublemint gum in the enjoined dress, because they cannot sell it in that dress any more. As a matter of fact, I am advised,—I have not looked into it, but I do under-

stand that since the accounting period the sales of Doublemint have considerably dropped off. Whether it has been
(4854) due to the discontinuance of the dress I do not know, but it is due to some cause. It may be the introduction of other brands; I do not know; but I am told it has dropped off. Now, as to the other points you raise, as to whether some allowance should be made in apportioning expenses for the cost of the prominent display of the big word "Wrigley's", and the big word "Doublemint", on the theory that that created good will, my feeling there is that one has to look to the intent of the advertiser at the time that he displayed this language, and if it were shown to my satisfaction that the intent of such display was to create good will for the name "Doublemint" or for the name "Wrigley's", and that was the principal purpose of it, I might lean towards the theory that some sum should be set aside and excluded from the accounting in
7275 that respect, but as I actually understand it, the whole object of advertising was to sell brands of gum, create sales, and not to create atmosphere for the company. It may be true that incidental to the display of this advertising and incidental to the many other activities of the company an atmosphere was created which was favorable to the company and which may be described as good will, but the sole object of the display matter was at the time of its display to sell the brands of gum which the Wrigley Company was dealing in at that time, and for that reason, in my opinion I have, as previously testified, absorbed the whole of the expense of advertising as a charge against sales, allocated in the manner that I have described.

As to whether anybody told me that the purpose of this advertising campaign conducted through the accounting period was not to create a good will, I will say, I am
(4855) not positive that I have ever heard an official of the Wrigley Company say one thing or the other, but I have read the testimony that was offered before the master in New York by witnesses called by the Wrigley Company, and I was almost surprised to find unanimity displayed by them in attaching practically no value at all from a good will standpoint to the prominent display of firm names.

I read the decree in this case. I interpreted the direc-

tions of the decree, where it states that the master should
7276 take a report, ascertain the gains and profits arising or accruing to the Wrigley Company from the manufacture and sale of Doublemint in the infringing dress from one period to the other, making proportionate deductions for overhead, advertising, and other proper expenses, as giving me directions on that subject. I interpreted it to mean that the expenses should be divided between Doublemint gum and the other brands of gum in proportions which, as regards each group, were suitable and equitable. That is to say, I did not read the decree as meaning that they should all be taken in the same proportion. Advertising might be in the proportion as A is to be B, and overhead might be as C is to F, etc.; whatever seemed to give the most equitable result was what I understood the court to mean.

(Mr. Aldrich then asked the witness what he understood the court to mean in the decree when it directed the master to find the proportion of the Doublemint profits to the profits on all other gums manufactured by the Wrigley Company. Mr. Mayer objected. The objection was overruled.)

The Witness: (Continuing) I was going to say, before Mr. Mayer interposed, that I did not think that you
(4856) were correctly quoting the decree, and I think so still.
7277 The decree there says he shall "ascertain the profits derived from the manufacture and sale of Doublemint gum" as contradistinguished from the other brands of gum. It does not say the proportion of profits, at all. It very clearly, it seems to me, is mandatory upon whoever makes the examination to endeavor to discover what were the profits derived from the manufacture and sale of Doublemint by themselves. Then it goes on to say that in that connection that I interpreted that where necessary, where the expenses are not specifically earmarked—I am interpreting, you understand—where the expenses are not specifically earmarked as Doublemint expenses but are common to all brands that then the party making the examin-
7278 ation and preparing the account shall divide them on suitable proportionate bases, and, as I previously testified, I interpreted the decree as meaning that whoever made up the accounting would exercise their judgment and use such proportions as seemed most equitable in regard to each group.

I have already said that I understood that proportionate deductions for overhead meant deductions for overhead, taking the portion chargeable to Doublemint as being such a proportion thereof as seemed reasonable, having regard to the particular group of overhead expenses under consideration.

In my interpretation, and in the preparation of Benington 1, I did not reject entirely any reference back or any connection of this language with the direction immediately preceding it, that they should find the profits, if any, accruing to the Wrigley Company from the sale of Doublemint, as distinguished from the other brands of gum made by the Wrigley Company.

In my opinion "proportionate" had no reference back
(4857) excepting in the sense that the decree as I read it
7279 means that in ascertaining those profits—there is a sort of hiatus there, it seems—from the gross profits there shall be deducted overhead or expenses and so much arrived at on a basis which involves the proportioning certain of the expenses.

I do not mean proportioning in the sense of the relation of Doublemint profits to the profits of all other brands. In my opinion they have no reference to each other; nor may I say has that theory been followed by Touche-Niven, nor by Marwick-Mitchell. Marwick-Mitchell, I point out, has interpreted the decree as meaning that overhead expenses shall be taken in proportion to the sales of each brand. You are now injecting the thought that the decree may mean that it should be in proportion to the profits earned by the different brands before deducting the overhead expenses, which is a very different thing. I am aware that there is testimony to the effect, as Mr. Aldrich
7280 says, that the sales of Doublemint, Juicy Fruit and Spearmint, were made at the same price, and that the cost of manufacturing was the same; but I am not sure in my mind now whether the account as filed by the Wrigley Company purports to show the sales and cost of manufacture of Doublemint to be absolutely identical with that of the other brands. However, if it is so, then your point is well taken that the proportion of sales to sales would be the same as the proportion of gross profit to gross profit.

It would not be the same as to net profit, because you
7281 are going to deduct this overhead, and so on, before you

arrive at net profit. I did not make the assumption that the words "proportionate deductions" according to a law of construction necessarily referred back to an ante-
(4858) cedent, or had been established in the same instrument.

(Mr. Aldrich then put the following question: In view of your admissions, as I understand the effect of your testimony, that a value would be created by this large expenditure in advertising certainly as to the good will of the company, and, as I understand your avowed purpose, you desire to do even handed justice between the Wrigley Company and the Larson Company here, are you yet prepared to tell me how, if you reject the suggestion which I made, based, as I think on the decree of dividing it on the basis of proportionate sales or profits, you would make up for the sum with which Larson is charged and Wrigley credited in this advertising account to the Larson Company for that which is retained by the Wrigley Company?)

The Witness: (Continuing) Before answering this question I shall have to hark back to the previous question relating to the interpretation of the decree, because I admitted that if the gum was sold at the same price and manufactured at the same price as the other brands of gum, and subject to the same discount, it necessarily followed that the gross profits of Doublemint would bear the same ratio to the gross profits earned by the whole company as the sales of Doublemint would bear to the total sales, but, as I now want to point out, that involves a definition of gross profit which is not contained in the decree. Assuming that the break-off comes at the point as defined by you, namely, the difference between sales, cost of manufacture and discounts, and that that is what the decree meant by profits, very good; but the decree may very well have meant after charging advertising,
(4859) for instance, or any of these other expenses, and then may have merely meant that after charging those which could be definitely ascertained the residium which could not be earmarked and which applied with equal force to all brands of gum should then be apportioned. That is an interpretation of the decree which in effect I have made. First, allocate specifically to Doublemint all expenses that are capable of allocation along any reasonable theory, then take as a sort of junk heap what is left

incapable of any other method of distribution, and divide that in proportion to—well, I have done it in proportion to the sales, and Touche, Niven & Company have done it in proportion to the sales.

7283 Now, to go on with the answer more specifically to your last question, I would say that it is true in my opinion that the expenditures for advertising have probably contributed toward the creation of a good will for the company as a whole. I am not in a position to state to what extent the advertising expenses charged against Doublemint in the accounting period by me have contributed towards the creation of that good will value. They may have done so, and they may not, and I again repeat that I do not feel that any credit should be given in this accounting to the Larson Company in respect to good will unless and until it is shown that a good will was created, and to what extent, out of the expenses charged in the accounting.

I would make no recompense under the facts assumed in the last question, because there is another fact that comes in there which would have to be considered and is hard to compute, and that is the good will created for the Wrigley Company prior to the commencement of this accounting. If there is anything in this talk about adver-
(4860) tising creating a sales power which carries over from
7284 one period to another, then at the beginning at the accounting period when this enjoined dress was first used the Wrigley Company had created for itself by very extensive advertising a trade name, it had got an organization together, got agents and distributors and jobbers, and so on, who would immediately be available for the sale and distribution of the Doublemint gum in the infringing dress, and the Doublemint gum therefore got that initial advantage, and if what you are now suggesting would be taken into consideration then it seems to me that this initial good will and the facilities for selling the Doublemint in the infringing dress at the commencement of the period would have to be considered as an offset.

The organization and good will to which I have referred in my last answer made it possible for the Wrigley Company to injure the Larson Company effectively and quickly, whether the Wrigley Company was a malicious
7285 and wanton infringer or not. I do not understand that

the point as to whether the Wrigley Company was a malicious infringer is finally determined at this time or not. I am speaking as a layman now, and I have not assumed in the preparation of my Exhibit that it was malicious.

In the preparation of my report, Benington 1, and the Benington Exhibits 2 to 19, inclusive, I have not assumed that the Wrigley Company was not a malicious and wanton infringer; but, as I have previously testified, I have endeavored to submit figures which will enable the master to make the punishment fit the crime under every circumstance, according to how he views the case after all the testimony is in. For instance, what I am driving at is
(4860) that where I include as an expense an item such as interest on investment, it is stated separately, it is not wrapped up in any other group of expenses, and should the master determine it is not a proper deduction it merely can be eliminated by the striking out of a single figure; it does not require a lot of recalculation.

I am aware that Mr. Freeman in his testimony and his tables prepared with reference to good will, made a calculation of the value of the good will at the beginning of the accounting period.

7296 It is very easy to explain why I have said it is improper to allocate advertising expenses, etc., on the basis of sales or profits, in view of the fact that on page 2 of Benington 19 I have made that kind of an allocation.

I first, according to Benington 1, ascertained the expense of advertising Doublemint gum. Having gotten that figure, I am now seeking to subdivide that as between Doublemint gum in a particular, peculiar package, and the rest of the Doublemint. Now, the advertising display matter did not differentiate; it was simply advertising Doublemint gum in conjunction with other gum; so we first analyzed out how much was spent in advertising Doublemint gum, and then it follows, it is quite a logical corollary that if that figure is right, and one-third of it was in this special counterband wrapper, that one-third of that expense should be charged to the special counterband wrapper, of course. When a man comes into a restaurant, or train or store, and asks for a package of Doublemint gum, he has not the faintest idea whether it will be in the special counterband package described in

Benington 19, or whether it will be in some other wrapper.
7287 I think that is a reasonable supposition, because the special counterband wrapper, as it has been explained to
(4861) me, was only used in certain cases, such as on railroad trains where, in substitution for this particular panel, which is shown on the first page of Benington 19, appeared different language, such as "Manufactured for the B. D. V. Company" and the object of having that was not as a rule to advertise B. D. V., or whatever it was, but merely as a check on its employes to make sure that they were accounting for their sales, and that—well, I am just illustrating—and that the parties for whom this gum was put up in special counterbands did not advertise themselves, that they relied on the general advertising put out by the Wrigley Company to assist in selling it, and that it was sold under such conditions that, as I say, the purchaser would ask for Doublemint gum, and simply be handed this package, which he might then notice or not notice had this special panel on.

(Mr. Aldrich then put the following question: And
7288 yet, as I have understood you a few minutes ago you were unwilling in your testimony to this master to assign any value to the advertising of the name "Doublemint" because its dress was changed at a certain time, and yet you have just made this answer as to the customer desiring these special brands or asking for Doublemint and receiving a special brand. I wish you would explain the distinction which you have drawn in the two cases I have mentioned in this question.)

The Witness: (Continuing) I do not pretend that I am very seriously of the belief that the infringing dress was what made the children cry for the Doublemint gum, but I did say, more or less parenthetically, a few minutes ago, that apparently this suit was based upon that sup-
(4862) position, that the moment the infringing dress was discontinued the whole thing apparently blew up, that that was what was selling the gum, that's why the court was asked to order an accounting, this very attractive dress was selling the gum and deceiving people into thinking they were getting Larson's gum and not Wrigley's.

I, however, do not see any conflict between the two answers made by me to which you referred. I am not saying in regard to this Benington 19 anything about the

residual value of advertising. You attacked the method upon which I had allocated the advertising cost of Double-
7289 mint as a whole between Doublemint wrapped in a special counterband wrapper and Doublemint wrapped otherwise, and, as I say, I do not think there is anything in my answers which would conflict. If there is, I wish counsel for the Larson Company would point it out more particularly, and I should be glad to explain.

7290 April 19, 1923. 11:00 o'clock A. M.

With regard to my statement that the purpose of advertising Doublemint was to sell goods, rather than to build up good will, I will say I regard that as an assumption, which one would naturally draw from an advertisement and for the obvious reason that the only object with which an individual or corporation goes into business is to sell its goods. That is its primary object. I do not, of course, say that it might not be the deliberate intention to advertise for some other purpose, but that purpose has not appeared to me from the advertising matter, and personally I should regard all of these display ads that I have seen as designed to center the attention of the public
(4863) upon the brands and induce them to buy them. As I
7291 understand it, the names of the brands, at any rate Doublemint, are not copyrighted. It is open to any one to use that and the insistence in the display matter in using the name "Wrigley's" was to draw attention to the fact that it is Wrigley's Doublemint that they are being solicited to purchase.

I read the Atlantic Monthly occasionally. I have not read Mr. Edward Box's article in that magazine giving an account of Mr. Curtis' resurrection of the Saturday Evening Post. If Mr. Curtis at the time he took the Saturday Evening Post, which was founded by Benjamin Franklin, got nothing but the name and the fact that it was founded by Benjamin Franklin, if there were no assets beyond $1,000 and if Mr. Curtis invested first half
7292 a million dollars in advertising it, and later another half million dollars and in excess of that, and if Mr. Curtis in that and other ventures, always contended that advertising was a capital investment, and proved it by success in his ventures, I would agree that such a campaign did have as its primary purpose the building up of the

good will of the Saturday Evening Post; but, of course, I would be inclined to argue that the extraordinary success of the Saturday Evening Post has been due to the exceptionally interesting, expensive and first-class matter that it has contained.

I would undoubtedly add that its extraordinary increase in circulation has made it a very valuable advertising medium, and they get very high prices for their space. One thing of course leads to another. It is true that in the early cases in the law books, where good will is discussed by the courts and the experts, they had to do with
7293 times and conditions where there was only a restricted
(4864) trade. In other words, the means of communication by rail and telegraph and wide distribution did not then exist.

I remember that good will, in the early cases, rested largely upon the personal contact of customers with a house. I remember one of the judges defines good will as being the likelihood that the old customer would continue to deal with it, and recur to the same place to do business, and continue to do business through the same house.

I grant that, with the vastly increased methods of communication and dissemination of the reputation of a firm through advertisements, and so forth, that large businesses like that of the Wrigley Company or like the circulation of the Saturday Evening Post becomes general, national, and perhaps international. In that sense advertising, while designed to sell goods also in some
7294 instances builds up a good will of a firm enjoying a national or international trade.

I think that if the advertising is guided and directed by men of sagacity, is wise in its character, such as the Wrigley Company's advertising has been, and commercially successful, such a result is attained by such advertising.

It is true that a gum manufacturer who did not indulge in advertising widely would have a narrow and restricted trade, confined to a small territory, as the advertising is part of the selling organization. If you restrict yourself to only one salesman, of course you are only going to get a very limited business.

As to whether, if that concern, is advertising on a scale which in $4\frac{1}{2}$ years results in the expenditure of

almost nine million dollars and is judiously directed, it
(4865) will build up a good will, I will say, it will tend to do
7295 so if the product is good and so on and so forth, if all the other circumstances are favorable. I merely want to stress this point once more, but take the case of the Saturday Evening Post to which you refer I do maintain that if a very stingy editorial policy had been pursued and very inferior reading matter had been inserted, that, despite any amount of money spent in advertising, it would not have been a success in my opinion.

I think it is true that if in the case of the Wrigley Company the gum had been of an inferior quality and he did not treat his customers fairly who purchased it, that his success would have been much less than it has been, with the conditions that have surrounded the administration of the Wrigley business.

I cannot say that the purpose of advertising Doublemint gum was to sell Doublemint gum, to the exclusion in any way of any purpose to build up a good will. I cannot, of course, see inside the minds of the directing officers of the company. I merely say that in my opinion
7296 when I see advertising matter displayed it always appeals to me that somebody is trying to sell me some particular kind of goods, and it does not strike me that any very great effort is being made to impress the name of the firm upon my mind. Where that is done, if it is done, I personally think it is rather wasted effort. I know the action it has on my own mind is very poor.

Being referred to Larson Exhibit 50, and asked whether the reaction of my mind would be against the Wrigley Company by reason of the prominence given "Wrigley's" in such Exhibit, and the very small prominence given the three gums in the panel below, I will say, what I mean is that when I personally see an adver-
(4866) tisement of that sort it makes absolutely no impression upon my mind so far as creatng a good will for the Wrigley Company unless I am induced to go and buy one of the brands displayed in that advertisement. If I do so and like the gum, the advertisement may have had the effect of making me remember that it was Wrigley's Doublemint and not somebody else's Doublemint, so that when I wish to make another purchase I shall correctly ask for what I wish to procure.

7297 In a sense, Larson Exhibit 50 shows a plain, manifest intention to make the name "Wrigley's" very prominent and make people acquainted with that name, but it seems to me the effort is to make them acquainted, to keep reminding them of Wrigley's Spearmint, Wrigley's Doublemint, Wrigley's Juicy Fruit. "Wrigley's" by itself I do maintain conveys very little meaning. Suppose you keep talking to me about Samuel Butler, for instance. There were several, I think three Samuel Butlers, who were all celebrated men, and unless you by some other descriptive word indicate whether you are taking about the satirist or the philosopher or the Way of the Flesh, it won't mean much to me.

I think that advertising the name of an institution dealing in a certain class of products through a long number of years and with a vast expenditure of money, such as Wrigley's have expended, tends to make the name "Wrigley's" and is intended to make the name "Wrigley's" synonymous with gum and dealers in gum.

As to whether I think that is true, also, for instance, with Heinz's 57 Varieties, I will say I do not know just what Heinz is getting at. I have sometimes wondered, because to me Heinz means just one thing. The only thing I ever take of theirs is Tomato Soup, and my mind usually runs to Tomato Soup. I do know that he makes pickles, but I do not think I have ever eaten them.

(4867) He has through all his advertising kept the name
7298 "Heinz" very prominent. He advertises 57 varieties. I have not the least idea of what they are except, as I say, tomato soup. I would say this, that when advertising of an institutional character is indulged in, when you see a sign like The Fair on the other side of the street puts up—they put up a big electric sign "Trade at The Fair"—or the Boston Store puts up "Trade at the Boston Store", then of course that is building up or attempting to build up good will for that institution and the public is generally aware that they deal in a large number of commodities, and it is just a sort of tickler to the shopper when he is coming down town that they are department stores at which they might just as well trade as anywhere else.

As to why that is not equally true of Larson Exhibit 50, I will say because such institutional advertising as

7299 I speak of, say The Fair or The Boston Store, presupposes knowledge on the part of the public that they are engaged in multifarious selling activities, and if they are not so informed, it usually fails of its object. If an out of town visitor sees "Trade at The Fair" on a sign, it probably is absolutely meaningless to him, and has no result until he does become aware that it is a department store and he can buy a hammer or buy a pair of socks there.

I think the public is pretty well aware of the fact that Wrigleys are gum manufacturers. To the extent that the public has such knowledge, the expenditure of large sums of money for advertising by the Wrigley Company has had, to some extent, the effect to build up a good will, assuming that the Wrigley product has been favorably known.

(4668) By limitation "to some extent" I did not mean it was a negligible extent. I simply had in mind that I still think the intention of the advertising is to sell the
7300 gum and not to create a benevolent attitude of buying towards the Wrigley Company on the part of the public. When you advertise "Wrigley's" very largely he is only selling four brands of gum, and you are reminding the public that those brands are for sale and trying to inject into their minds the desire to purchase one of them.

I think it is probably true that no one thinks that Wrigley is selling pickles or that Heinz is selling gum, although counsel may have heard about the gentleman who was selling the Wrigley tooth brush. I don't know that that has been mentioned in this case, but somebody did try to trade on the advertising of the Wrigley Company and started selling a tooth brush. The first the Wrigley Company in Chicago knew about it was an indignant letter from a customer who said that the damned tooth brushes were a disgrace and asking for their money back. I could not tell whether he got his money back. I do not think he got it back from the Wrigley Company of Chicago.

I made an examination in the course of my investigation of the U. P. S. coupons.

As to whether the table which Mr. Aldrich is advised by opposing counsel had been prepared at the time when
7301 I was engaged in that examination, I will say the record

from which that was prepared was in existence, and I have seen it and used it. There was a register in which they tabulated from day to day or month to month the number of coupons of each class that were issued and redeemed, and it was from that source, I take it, that the
(4869) tabulation Mr. Aldrich is speaking of has been prepared. I did not see the tabulation itself that Mr. Stanley had ready when my cross-examination was finished. have not seen it, though I know it is in course of preparation.

I did not state that they kept a record of each brand. They keep the number of coupons of each class, meaning by that that what they call their No. 1, 5 and 25.

In my report, on page 19, when I refer to income and excess profits tax I call attention to the fact, as I assume, that Larson would only be called upon to pay 12½% tax on any money that he should receive in this matter, and that the taxes when paid by Wrigley were at the high rates of 1917 and 1918.

7302 As an accountant and disregarding the legal phases of the situation entirely, I would say that in preparing Exhibit A to my report I would naturally in considering income taxes as an expense insert them at the amounts and rates which were actually paid, and that is what I have done. I would only be if I went into the legal phase of the thing that I should begin to consider
7303 whether possibly any other rate should be applied than the rate actually paid. After all, accountancy is merely the application of horse sense to a given set of circumstances in which figures are concerned, and I think all surrounding circumstances, viewed as a layman, would affect the principle.

All I intended in making the statment in my report to which attention has just been drawn was to answer the apparent argument of Touche-Niven, that were Mr. Larson to be awarded a sum of money as the result of this suit, that he would have to pay taxes on it and for that reason no taxes should be deducted as an expense in the
(4870) account prepared by the Wrigley Company before arriving at the net amount to be accounted for, and I merely point out that the Wrigley Company would be, as I see it, suffering a great hardship if not allowed to deduct those taxes because it has actually paid them as

an incident to carrying on its business, and that if it were as a result of this lawsuit compelled to pay over to Mr. Larson any sum of money, the Treasury regulations do permit in the year in which it turns over the money to Mr. Larson to treat the sum so turned over as an expense of its business in that year, and I want to draw attention to the fact that the relief awarded to the Wrigley Company by that regulation is only a partial
7304 relief because it can only include that sum of money as an expense in the year when the tax will be 12½% whereas it paid it in a year when it was up in the 60% bracket, and to the extent of the difference between 12½% and 60%, or whatever it did pay, it would be simply out of luck. I think the method in which the tax chargeable against Doublemint profits is to be arrived at is arguable and does involve perhaps some legal questions. I personally lean toward the alternative method, which I have set up in my report.

7305 In Exhibit A to my report the taxes applying to Doublemint have been figured as falling within the 60% bracket and that is the method on which the Wrigley Company also figured its taxes in the accounting filed. It, however, made a couple of obvious clerical mistakes which I described on pages 20 and 21 of my report, and I have corrected the account accordingly. One of them, you might call it clerical or you might call it an error of principle. They treat interest on investment as an expense before arriving at the profit on which they would calculate the tax. Well, of course the Treasury Department does not allow you to figure the tax in that
(4871) way, and in my calculation I excluded that interest as an expense.

7306 In the second paragraph on page 20 of my report it is true that I state that the Wrigley Company in the account filed by it calculated taxes for both 1917 and 1918 at 60%, and that I state parenthetically that these were the highest rates. The facts are that the Wrigley Company did calculate the taxes for both 1917 and 1918 on the basis of 60%. They should, however, have calculated the 1918 taxes on a basis of 65% as I point out in the last paragraph of my report on page 20 and at the top of page 21. 60% was the highest bracket for 1917.

It is correct to say, as appears from page 5 of the

Wrigley account filed before the master on December 3, 1918, that when they filed the account they assumed that the 1918 taxes would be on the same basis as the 1917 taxes, and so indicated in a footnote on page 5.

(It was agreed that there might be written on page 20 of the report, Wrigley Exhibit 92, Benington 1, the figures "1917" in the second paragraph after the word "highest" and before the word "rate" so as to express with accuracy the facts as Mr. Benington has stated them.)

Thursday, April 19, 1923. 2 P. M.

7308 HAROLD BENINGTON, resumed the stand for further cross-examination by Mr. Aldrich.

I did not use 60% in the tabulation that I made at page 106 in respect of 1918. I used 65%. I think that the correction I have already made on page 20 straightens that matter out. I think the sentence on page 20 is a little clumsy now, but I think it can be tortured into meaning
(4872) what it is intended to. The sentence as corrected does not mean to imply that for both the years 1917 and 1918 I have computed the cost at 60%. I said that in the account originally filed by the Wrigley Company they
7309 used 60% for both of those years. And then in the last paragraph I go on and say I have made two corrections, one to take care of that 65% in 1918 and another to take care of the question of interest.

As to why, if I preferred the second method of treating the subject which I have set forth in my report, I did not use these figures, I will say because it was the viewpoint of the Wrigley Company's own officials, and it was, as I say, an arguable point of view, and I therefore did not change it, and I make that clear in my report, that I am setting it forward as the method that I especially approve of.

Referring to page 106 of my report, I have added to the other taxes 60% in 1917 and 65% in 1918 the normal tax to the balance in each case; 6% in the one case and 12% in the other. The effect of my computation is to increase the taxes for which the Wrigley Company would get credit if this theory is adopted to a considerable sum,

but I want to explain that my statement on page 106 is
7310 the theory of the Wrigley Company as worked out in its final account except that I have corrected it arithmetically. I have introduced no new argument at all.

As to why I have adopted the theory or given the weight of my testimony to the theory that the Larson profits should be included in the highest bracket, I will say the theory on which they are included in the highest bracket of taxes paid in each of these years by the Wrig-
(4873) ley Company is that the Doublemint business was the last business undertaken, the last brand put out by the Wrigley Company, and that prior to the consideration of the profits derived from Doublemint they were already making profits of such magnitude that they would have reached that high bracket class. It was that theory that induced me to make it that way.

7310 "Q. Well, don't you know that the record shows that Juicy Fruit was put out after Doublemint?

Mr. Mayer: I think you are wrong in your assertion. They have been making Juicy Fruit for years before, but they began to advertise Juicy Fruit in 1916.

Mr. Aldrich: Juicy Fruit in the dress and the manner it was clothed and put out in 1916?

7311 Mr. Mayer: Mr. Eckerly, did not the Wrigley people manufacture and sell gum under the name of Juicy Fruit prior to 1914?

Mr. Eckerly: Many years before that.

Mr. Mayer: And up to and during 1914 and 1915 and the accounting period?

Mr. Eckerly: Yes, but I think Mr. Aldrich referred to the new dress package which of course was put out on the market for a long time before we ever started to advertise it. I don't know the dates, but it was put out for a long time before that.

Mr. Aldrich: Q. Very well then, that question you need not answer because I seem to have been in error on that matter."

(The witness continued): As to whether I have been advised or considered in connection with my investigation of this case that the Wrigley Company is held to be a trustee of the Larson Company with reference to the sale of Doublemint gum, I will say I do not like to commit myself to a statement on what is a legal technicality. I understand that they are not trustees; they are ac-

countable for these profits, but I do not think that they are precisely in the position of trustees.

7312 I undertsand that the Wrigley Company is held on the basis that so far as this controversy is concerned it is a trustee ex maleficio. I have no reason for distinguishing the duties as between the Wrigley Company and the Larson Company between a trustee in the ordinary accepted sense by appointment and a trustee ex maleficio on this subject of allocation or assignment to brackets of the income taxes. I don't believe that there should be any distinction drawn between an account pre-

7313 pared on either basis. I am inclined to think, as I said before, that on account of this fiduciary relationship, if it exists in law, which I understand counsel for the Larson Company assured me that it does, that the alternative method which I give in my report, from an accountant's standpoint, to be the more equitable method of distributing taxes between the infringing dress and

(4874) the non-infringing dress.

I know as a matter of fact that Doublemint gum was sold during the accounting period along from time to time contemporaneously with Spearmint and Juicy Fruit, and was advertised at the same time along with them. I know it was not all sold in a later period after the Wrigley earnings or profits had reached the 65% bracket.

7314 As to what justification as an accountant, considering the relations of the parties, I can urge for assignment of the Doublemint profits to the highest brackets as if all of the Doublemint sales had been made after the Wrigley Company's profits had reached 60 or 65%, I will say merely on the theory that I enunciated before, that before beginning to sell Doublemint the Wrigley Company already possessed its clientele and its general business relating to the other brands and that this was something added and without consideration to this Doublemint business, the profits on the rest of the business were large enough to take it into those higher brackets. That is the theory. I don't know that I have any additional arguments to advance except this is going through my mind, and while I apparently seem a little uncertain about the fiduciary relationship between the Wrigley Company in its dealings with the Doublemint business, there was a Treasury ruling made not very long ago on

the subject of taxes to be paid and on damages paid in infringement suits, and in the course of that ruling the Treasury Department goes out of its way to say that the
7315 infringer is not a trustee for the plaintiff.

I think that case was a patent case, but I thing the underlying principle is the same. The amounts earned
(4875) on the Doublemint business as between the injured party and the infringer, considering the infringer a trustee for the injured party, could have been considered in the earliest business done instead of last for the purposed of assignment to brackets of such earnings, but that would have been to adopt a different theory from the one that I did adopt.

I am aware of the doctrine that if funds are intermingled that they must first be considered to be those belonging to the injured party. That rule was in my mind in the course of the preparation of this report.

7316 As to why, in view of the rule, I rejected and put all of the Larson profits in the higher brackets, I will say I am not prepared to admit that putting all the Larson profits in the higher bracket is to disregard this doctrine of unberrima fides. That doctrine, I understand, merely implies the duty of segregating and proving and distinguishing from the trustee. Now, he may, I take it, adopt any theory that is logical and equitable in making his allocation provided he can apply his theory.

I have no additional reasons to advance, and I did not advance the theory as my own as I stated before. I have already said I preferred the alternative plan. That
7317 is the last page of the whole report.

I will state how it happens that in the main part of my report there is shown a net loss for the accounting period of $691,560.76, with a foot-note which states what the net result would be if I used what I call the alterna-
7318 tive method of allocating federal income taxes. I think the way that arose was simply in discussing the matter with the officials of the Wrigley Company the two
(4876) methods of treating taxation were under discussion. I think at that time I expressed my preference for the alternative method, but they themselves said 'Let's leave it in and put your alternative in as a footnote, let's leave it as it is, because that is how it was in the original account", and I said "All right, as long as it explains both methods that is satisfactory."

7319 The method shown on page 107 of my report would result in the charge for taxes being $190,991.80 less than shown in the Wrigley Company's filed account.

As to whether the next sentence on page 2 to which my attention is called makes me advise the master that the total loss to the Wrigley Company on the manufacture and sale of Doublemint during the accounting period is, in my opinion, $690,560.76, I will say I don't quite think that I express my opinion that that is the law. That is the law subject to the account being prepared in accordance with the theories as are set out throughout this report.

I mean by that limitation that under every group of expenses and income contained in this account, which is described as Exhibit A to Benington 1, I believe that I have very clearly set out the extent of the responsibility that I have assumed for the theory and for the correctness of the figures. Where it is a theory of my own advancing, I say so; where it is a theory that somebody else has advanced which I entirely approve of I say so, and where I have accepted somebody's theory without any expression of opinion in regard to it, I also say so, and one must necessarily read the report in order to intelligently decide to what extent the final result of $691,560.76 represents
(4877) my own individual opinion. There are alternative
7320 bases on quite a few matters.

The language employed by me in the sentence referred to may be a shade more affirmative or assertive than I intended it to be, but I did expect that the language of that paragraph would be read and considered in connection with its text, and I admit if the rest of the report were not read, that sentence, isolated by itself, it may be rather
7321 more dogmatic than I intended it to be. I have confined my attention to the revised account of the Wrigley Company which you correctly state shows a net loss for the entire period of $272,627.53.

In giving the figures of $272,627.53 as the amount claimed for a loss by the Wrigley Company in its revised account and my figure of $691,560.76, I have illustrated this subject by Exhibit B of Benington 1 of my report. The fourth column contains the changed result as shown by my revised account, Benington 1, Exhibit A. The difference between my revised account and the Wrigley revised account under each heading of income and expense

is shown by column 6 of Exhibit B. The largest items of these differences are interest on good will and income taxes and advertising. Those are the three principal amounts.

In my statement on page 20 of my report, to which my attention was directed before the noon adjournment, to the effect that if Larson were allowed profits without deduction of taxes, Wrigley would suffer a great loss, I did not have it in mind that it would be better that Larson should suffer a hardship than Wrigley. From the text I was considering the question of hardship. I think a solution should be sought which would not work a hardship to either party. I did not mean by that that some solution should be, in my judgment, sought that did not
(4878) allow Wrigley Credit for all of these taxes. What I
7322 have in mind is this: that if a money award is made to Mr. Larson, and as a result of his receiving it he is required to pay a tax on it despite the fact that the taxes paid by the Wrigley Company have been already deducted from it, that to the extent that the item has been taxed in a sense to Larson, if you please, some adjustment might be made by agreement of counsel which would work equity in the situation. As to whether that implies that I do not think it would be equitable to the Larson Company in the event of a finding in its favor that the
7323 taxes should be deducted in this accounting as paid by Wrigley, I will say the problem before me is to determine what were the profits made by the Wrigley Company and, regarding the federal taxes, as I do, as an expense before one arrives at the profits accruing to the Wrigley Company from the manufacture and sale of Doublemint, I would necessarily have to take into consideration what the Wrigley Company did pay.

What counsel for the Larson Company are talking about seems to me goes a step further than that, and gets us into a complication which arises as a result of the tax situation generally. As I say in my report, the real equities of the situation as between the two parties to this suit would be best settled by the Treasury Department allowing the Wrigley Company to file amended returns going back to the beginning of the infringing period and excluding from their profits those resulting from the Doublemint on the theory that they were in error and included in their income something that belonged to a third

party, and then for Mr. Larson to file amended returns going back to the beginning of the accounting period on the theory that he had inadvertently excluded from his
(4879) income something which he now finds belongs to him
7324 which was earned in those years. If that could be done, but I cannot be done. Still, that is not our fault; but it is the fault, as it seems to me, of the aribitrary attitude of the Treasury Department. Now, if as the result of our charging in this account the actual taxes paid and so arriving at the actual profits earned, if when Mr. Larson is awarded these profits the Government does something harsh or unpleasant to him, I am not prepared to say that that is anything that must necessarily be considered by us now. I do throw out the suggestion though that if the court thought there was an injustice or a hardship, that there would be a way of perhaps—if it was—splitting the difference.

I know of no way by which in the event supposed by Mr. Aldrich's question, if the taxes were allowed as a credit to Wrigley in this accounting, that Larson could escape taxation on such amounts as he received under any law now in existence or any power of ruling in the commissioner on the ground that on that property the taxes had already been paid. I admit that under the existing law and regulations undoubtedly Larson would have to pay a tax on the amount of the award at the tax rate ruling in the year in which he receives it, which at present would mean about 12½%.

I also understand that under the present laws and regulations that if Wrigley is allowed to deduct the total amount, if any, allowed Larson by the master, it would only go as a deduction from his profits of the year in which the payment or settlement had been made.

(4880) *Redirect Examination by Mr. Mayer.*

I did not find any clerical errors in the Wrigley filed account other than those I have pointed out in my report.
7326 I have no reason to suppose for an instant that the figures in Wrigley's filed account are not correct, but I have not checked them. That is, I have not checked all of them. The figures that I have adopted in my report are the figures that were approved by Touche, Niven & Com-

pany and Marwick, Mitchell, Peat & Company except as I have indicated otherwise in my report.

As to why I expressed a leaning toward disallowing manufacturers' profits, I think I said that in my view interest on capital invested could not be allowed, and at the same time a claim made for an allowance for a manufacturer's profits, and that of the two methods I preferred interest on invested capital. That is the only reason I had for leaning against permitting manufacturer's profits to be allowed in the case on hearing.

7327 Assuming that the Freeman theory were a proper theory to ascertain value of good will, I do not think that the market value of the Wrigley stock should be given consideration in making the calculation. I say that because the market price of a stock is a very sensitive thing, and it fluctuates from all sorts of causes, wars, and so forth, whereas for the purpose of making an actuarial calculation the actual ascertained profits of a period can be used reliably and properly.

I have in mind large companies which carry good will as an asset and the result thereof as compared to its stock valuation. I have made quite a careful inquiry along (4881) those lines for the purpose of satisfying myself whether a good will value ascertained by the Freeman formula, when set up on a balance sheet, would result in a stock value anywhere approximating the market value of the same stock, and I looked into, for example, I looked into the Jewel Tea Company which is a corporation for which Touche, Niven & Company are the auditors, and I 7328 find that that company was refinanced in 1916 by Goldman, Sachs & Company, and at that time common stock in the amount of twelve million dollars was issued. At the time of the issue of such common stock the average earnings of past years indicated that a very reasonable common stock dividend could be earned. That stock has sold as high as seventy-five dollars a share at one time, but at the time I made my notes that I am looking at, which was August, 1922, it was selling somewhere between fifteen and twenty dollars a share, and it has sold down as low as three dollars a share, and the stock has never paid a dividend, and I would like to remark that that is just an instance of where good will gets a terrific jolt if the management changes. There was a case where new men who had started a business with a push cart

had built it up to enormous dimensions, and then sold out to the public and hurried off to play gold, the result, of course, being disastrous. In that case that common stock was issued January 1, 1916.

The National Suit & Cloak Company, with which Mr. Freeman is at present associated, is another case. It has
7329 outstanding common stock in the amount of twelve million dollars, all of which was issued against good will, and this stock sold as low as fifteen dollars a share in 1921.

Then take again the Goodrich Tire & Rubber Company.
(4882) Ever since 1912 that company has had outstanding common stock to the amount of sixty million dollars, represented to the extent of fifty-eight million dollars of it by good will, and that stock has sold as high as 86⅝ths per share in 1912 and as low as fourteen dollars a share in 1913 and at no time has it reached par on the exchange.

The twleve million dollars common stock that the Jewel Tea Company issued in 1916 represented good will. The par value of the common stock of that company was $100 a share, so that when it dropped to $3.00 a share, the actual good will value, instead of being twelve million dollare, was, as based on the market price of the stock, only three per cent of the value placed on the good will by the company; 3% of $12,000,000, or $360,000.00.

7330 Take my illustration of the National Suit & Cloak Company. I mean there that in 1921 the value of the good will of that company, as based upon the market price of its common stock, was only 15% of the valuation placed upon the good will by the company.

It would be hard to say what would be the effect of capitalizing expenditures for advertising on the market value of the capital stock of the company. It just depends how the public reacted to an item of that sort making its appearance. I think amongst people on the street, they would become suspicious and say, "Good gracious! these people are going out and gathering up every cat and dog they can and putting in on their balance sheet as an asset", and it might unfavorably affect the value of the stock. On the other hand, of course, its inclusion as an asset would inevitably swell the earnings; it would apparently have made that much more profit in the year, so the two things might offset each other.

(4883) There would be no justification whatever, in my

opinion, to capitalize expenses for advertising that were necessary in order to obtain a normal amount of sales of the article advertised. It is entirely contrary to commercial practice.

7331 I don't know, or if I did know, I don't remember, whether the Wrigley Company had to or actually paid or spent as much or more for advertising per year since the accounting period as at any time during the accounting period. I know the Wrigley Company has continuously spent very large sums for advertising.

Recross Examination by Mr. Aldrich.

I do not understand that Mr. Freeman in his testimony or valuation of good will based it at all on prices of stock. Mr. Steven to some extent did.

I did not understand that Mr. Aldrich by his allusion to Mr. Box's article in the Atlantic was suggesting that such advertising expenses as there referred to should be, as a matter of commercial practice, carried as capital in-

7332 vestment. I thought that Mr. Aldrich was probably leaning towards a suggestion that a portion of it should, but if he had any other idea, my answer was not in any way affected by what I might have thought he had in mind.

(Mr. Mayer then re-offered in evidence Wrigley Exhibit 92, Benington 2. The master refused to admit it in evidence on the ground that the Wrigley Company was not entitled to a manufacturer's profit.)

(4884) (L. P. LARSON JR. resumed the stand for further

7334 direct examination by Mr. Mayer.)

I have been asked on several occasions heretofore re-

7335 cently to produce anything in my custody or under my control or in the custody or control of my company, L. P. Larson Jr. Company, or its counsel, whether by way of letters or correspondence or invoices or books or records or anything else, which will have any bearing upon any orders given by me, or the L. P. Larson Jr. Company, or any one on its behalf, to Charles G. Buck, or his concern, for printing Wintermint gum counterband labels, or Wintermint gum individual stock labels. I have here with me

such of those documents that I can produce. I have not here with me all of such documents inquired for as can be produced. I have brought with me the documents that
7336 Mr. Mayer requested me to bring showing a statement of the business done with Mr. Buck in 1913 and also up to the present date. That statement does not show the items for which the payments were made. It shows the dates of merchandise purchased and payments. It does not show the character of the merchandise purchased. I have not brought here anything from which can be told what Wintermint gum counterband labels, or Wintermint gum individual stick labels were ordered by me, or by or on behalf of the L. P. Larson Jr. Company from Charles G. Buck, or any concern with which he was connected. I have nothing here but the statement of business that we have done with C. G. Buck & Company in 1912, 1913, 1920, 1921, 1922 and 1923.

(Mr. Mayer then drew the master's attention to a request he had made of Mr. Larson on March 9, 1923, which request reads as follows:

7337 "Mr. Larson, will you please produce a statement showing the dates on which you ordered any individual (4885) stick wrappers or any counterband wrappers from
7337 Charles G. Buck in 1913 and 1914 for use on Wintermint gum, such statement also to show the quantities ordered and the amounts paid Buck therefor and whether they were single stick bands or counterbands and also the number of each that were delivered by Buck to the Larson Company and the dates of the delivery."

Mr. Mayer at the same time told the master that Mr. Aldrich had objected and the master had overruled the objection. The master thereupon asked Mr. Larson whether he had the information. The witness said he did not have any of the information with him of the labels printed by Mr. Buck in December, 1913. The master then asked the witness why he had not brought that along. The witness continued:)

I have not had it in my possession since the time I gave Mr. Aldrich all the evidence that we had to prepare papers in case that the Wrigley Company should endeavor to bring an injunction against us, and Mr. Aldrich used these papers to make up the affidavits. The labels in question that Mr. Buck printed for us in December of 1913 were for—I may say that we wanted to

see what the packages would look like. I am willing to produce everything I have. I understand my counsel's possession is mine. I cannot produce what was requested of me by Mr. Mayer on March 9. I have not got it nor neither has my counsel got any copy of the order that (4886) Buck printed up for us in December, 1913.

"Mr. Mayer: Q. What about any orders that Buck printed you of Wintermint counterband labels or Wintermint individual labels at any time in 1913 and 1914?

A. I don't believe that Mr. Buck printed any because R. J. Kittredge & Company, in January, 1914, delivered our large order that had been placed with him for Wintermint labels."

Mr. Mayer then drew the Master's attention to the proceedings of March 12 and March 13, 1923, wherein Mr. Mayer asked Mr. Larson whether he had prepared the statement (which he had been asked in the prior week to produce) showing the dates when the witness company gave orders to Charles G. Buck, the amount of the orders and what was ordered, and that the witness had replied that he had not yet prepared such a statement but that he might be able to have it the following morning and was requested to produce it at that time, and Mr. Mayer then drew the Master's attention to the fact that on March 13, 1923, the record shows that Mr. Mayer asked the witness the following:

"Mr. Larson, you were asked at a recent hearing to prepare an itemized statement showing the dates on which you ordered individual stick wrappers or counterband wrappers from Charles G. Buck for use on Wintermint gum, such statement also to show the quantities ordered and the amounts paid Buck therefor, whether they were single stick bands or counterbands, and also the number of each that were delivered by Buck to the L. P. Larson Jr. Company and the dates of the delivery. Have you done so?"

And Mr. Mayer then drew attention to the fact that Mr. Aldrich had objected and that the Master had overruled the objection and that the witness had replied "No, sir".

Continuing his examination the witness further testified:

(4887) I testified at a recent hearing that I used to receive invoices from Buck for whatever printing I gave him. I have not here now any invoices or any documents show-

ing any orders given by me to him or by my company to his company for printing any Wintermint counterband labels or any Wintermint individual stick labels at any time from the beginning up to the time that Mr. Buck
7342 testified in this case. Mr. Buck did not print anything in 1914 for us. I am positive about that, and he only printed just a small little trial order in December, 1913. By that I mean the order that was not to exceed ten thousand Wintermint counterband labels concerning which I have testified. That's all Buck printed for us, but then after 1914, or maybe in the fall of 1914, I don't know just about what time, Buck did start to print Wintermint brands and Wintermint labels for us. Now, if Mr. Mayer wants that, I have not looked for that, but I am sure I can find plenty of them for him.

(Mr. Mayer then stated to the witness that he wanted him to produce at the next hearing all invoices, slips, documents, correspondence, letters, books of account, subsidiary records, or anything else from which the master could see the dates when any Wintermint counterband labels were received by the witness or his company from Buck or his company, the amounts thereof and the amounts paid therefor, and from which could also be seen the number of Wintermint individual stick labels received by the witness or his company from Buck or his company, the amounts thereof, the dates thereof and the amounts
7343 paid therefor. Mr. Mayer also said that said request covered any time from the first order, if any, that was given by the witness or his company to Buck or his company for any of the matters just referred to up to the time when Charles G. Buck testified in this case, namely,
(4888) April 12, 1922, and from which there could also be
7343 seen, in addition to the matters just referred to, the amount of every payment made by the witness or his company to Buck or his company from the first order to April 12, 1922, showing exactly what each of such payments was made for.

Mr. Aldrich then stated that he wanted to make a statement, and that if counsel for the Wrigley Company wanted the statement under oath, he would so make it, although he disliked being a witness. Mr. Mayer replied that if Mr. Aldrich wanted to make a statement, he thought was germane, he should be sworn as a witness.

7344 Thereupon, CHARLES H. ALDRICH, being first duly sworn, testified on behalf of the L. P. Larson Jr. Company.)

Soon after the Wrigley Company commenced its suit on the Doublemint gum in June, 1915, I undertook and was charged with the defense of such action, and I anticipated from the practice of the Wrigley Company in the earlier litigation commenced in October, 1911, that they would seek a preliminary restraining order or an injunction, and with the intention of preparing for resisting such application if and when made I caused an investigation to be made, made inquiries to satisfy myself and looked into the facts of the case as to the exact dates of the Larson Company engaging in the manufacture of Wintermint gum and its first sales, and in that connection I took the affidavit of Otto J. Haas, which was sworn to before Mrs. Loveless, with samples of the Larson Wintermint labels attached thereto. This affidavit was executed on the 24th day of July, 1915. At the same time I took Mr. Larson's affidavit with reference to sales made and which was executed on the 19th day of July, 1915,
7345 with samples attached; and at the same time I obtained from J. A. Caulfield an affidavit—he is an officer of the
(4889) Kittredge Company—as to the orders placed with
7345 him, and there is attached to his affidavit, executed on the 15th day of July, 1915, samples of Larson's Wintermint labels and counterbands, both of them. Mr. Caulfield states in his affidavit—

(Whereupon Mr. Mayer objected to Mr. Aldrich stating the contents of the affidavit, and the master sustained the objection. The witness continued:)

7346 I took a great many affidavits, if the court please, at that time, not only of these men immediately connected with the printing of the labels and the purchasing of the gum, but I sent affidavits also to purchasers in other states and asked them that if the form, calling attention to the date when the shipment had been received, when payment had been made, and so forth, and asking them if the form which I submitted was not right, why to have an affidavit made stating the facts as they wanted them stated.

(Mr. Mayer objected to Mr. Aldrich giving the sub-

stance of a document which had not been offered in evidence, and also on the ground of incompetency and irrelevancy.)

7349 These affidavits were never used as no applications for a temporary restraining order or injunction were ever made by the Wrigley Company. We filed our answer and counterclaim. In that connection I obtained the original invoices or sheets, slips of paper evidencing the invoice of the different orders and deliveries bought from Caulfield who had delivered stuff in the latter part of December, as I recall it, and also a sheet of paper showing that there had been a small order which had been used in the first
7350 shipment from Buck in December—for the first shipments I should say. I did not take Mr. Buck's affidavit and was not brought in contact with him at that time.
(4890) Mr. Caulfield came to my office and executed his affi-
7350 davit, and in one of the affidavits as I recall, although I cannot be sure of that, I had also the bill received by the Larson Company for the electro-typing, or whatever it is, for making the pattern of the original Buck wrapper counterband as he had made it. That man's name is on one of the copies of the affidavits which I have glanced over and have not been able to find. My stenographer at that time in copying the affidavits so that we would have copies for service did not, of course, have original documents enough to go around and she made copies of this electrotyping, or whatever it is. My recollection would be that that man's name was Kresse, but I would rather wait until I can find the affidavit which I have seen within a few days and be sure of the name and the amount. Mr. Larson thinks the affidavit is here. It is here. William Kresse is the name. I am sorry to say that the original of that invoice is lost as is the original of the Buck invoice, but this is the plate that was prepared—payment
7351 for the plate of thirty dollars, that was prepared for the Buck printing done in December. When I say "this", I am referring to a purported copy made by my secretary or stenographer at that time when this affidavit was prepared, which was on the 19th day of July, acknowledged on the 19th of July, 1915. I am only referring to it for reference, the 19th day of July, 1915. I am speaking of affidavits made at the time that purports to be made and I want to be understood as a witness as saying that there has nothing been fixed or no attempt made to conceal or

withhold from opposing counsel or this court any information on that subject. I made the statement here a few days ago when Mr. Larson was interrogated about this
7352 matter that I had that in my possession at that time and I obtained it under the circumstances that I obtained the
(4891) Caulfield and at the same time, and obtained the
7352 Kresse, the memorandum slip or invoice showing the purchase from Charles G. Buck & Company of these labels. That memorandum and all of these things were, as I supposed, in an envelope in the Larson files, and I believed the night I left this court room on the first occasion that I could go right to my files and find it. I did not find it and I told Mrs. Loveless to make search through all of the many envelopes of this character (indicating large manila envelope) that I have in the Larson files. She had not found it at the time this matter was later under discussion and during the late adjournment I have myself spent a great deal of time not only going through all the envelopes but through all of the papers, thinking it might have gotten in between papers, but I have been unable to find that. I can only say positively that I know it existed and that I had it in my possession and that I have never willingly let it get out of my possession and that I am not now a party to secreting it or withholding it from the court.

7353 As a witness I would like to make a statement here in addition—that when this matter first came up, as I have indicated, I thought that that particular paper was in my possession and that I would find it. When I found that I could not find it and in some way in the frequent handling of these different papers it had gotten slipped out and was out and lost I directed Mr. Larson to make a most exhaustive search to find that paper. He reported to me, bringing me his ledger sheets showing transactions long before and during this December, and subsequent to that also, that showed the transactions but did not show the character of the transactions, and I told him to find the invoice. I want these gentlemen to be convinced that Mr. Mayer's statement that Mr. Larson and the effort
(4892) made, as Mr. Buck testified, that Mr. Buck did not
7353 know Mr. Larson until 1915 was a mistake.

7354 (There was marked for identification the copy of the affidavit dated July 19, 1915, which Mr. Aldrich had referred to on his examination, and which Mr. Aldrich had

said he was willing counsel for the other side should inspect. Affidavit of L. P. Larson Jr. was marked Aldrich exhibit 1 for identification. The witness continued:)

Mr. Larson says I have made one mistake, and if so I want to correct it. Mr. Larson says that Mr. Buck had printed the labels and that this plate that is referred to in his affidavit, printed by Kresse, was for the boxes, that was a plate to put on the boxes. That is doubtless explained in his affidavit. I have not looked at it.

7355 April 20, 1923, 10:30 o'clock A. M.

(Mr. Aldrich said that so far as he remembered, in his testimony of the day before he had only referred to the affidavit of Caulfield and the affidavit of Haas, in addition to the one of Mr. Larson. The said affidavit of
7356 Haas, executed July 24, 1915, was marked for identification Aldrich Exhibit 2, and the said Caulfield affidavit, executed July 15, 1915, was marked for identification Aldrich Exhibit 3.

L. P. LARSON, JR., resumed the stand for further direct examination by Mr. Mayer:

Mr. Mayer asked the witness whether he had produced the books, papers, invoices and various documents that he had theretofore been asked to produce, pertaining to the Larson Company's orders for printing. The witness answered that he had. Mr. Mayer requested that he hand the said papers to the stenographer to be marked for identification. Mr. Aldrich stated that he didn't think
(4893) Mr. Larson understood the question, because that was
7356 by no means all his transactions with Mr. Buck; that it might be all the orders he had. The stenographer thereupon marked the papers produced by Mr. Larson as follows:

7357 Check from Larson Co. to Buck for $30.00, dated Jan. 8, 1915, marked for identification Larson Exhibit 174;

Check for $40.00, dated Jan. 22, 1916, from Larson Co. to Buck, marked for identification Larson Exhibit 175;

Check for $30.00, dated Feb. 5, 1916, from Larson Co. to Buck, marked for identification Larson Exhibit 176;

Check for $49.75, dated Feb. 12, 1916, from Larson Co. to Buck, marked for identification Larson Exhibit 177;

Check for $50.00, dated Feb. 19, 1916, from Larson Co. to Buck, marked for identification Larson Exhibit 178;

Check for $50.00, dated Feb. 29, 1916, from Larson Co. to Buck, marked for identification Larson Exhibit 179;

Invoice for $27.50, dated Jan. 18, 1916, from Chas. G. Buck Co. to L. P. Larson Jr. Co., marked for identification Larson Exhibit 181;

Invoice for $43.75, dated Feb. 1, 1916, from Buck to Larson, marked for identification Larson Exhibit 182;

7358 Invoice for $37.95, dated Feb. 19, 1916, from Buck to Larson, marked for identification Larson Exhibit 183;

Invoice for $15.00, dated Dec. 21, 1916, from Buck to Larson, marked for identification Larson Exhibit 180;

Ledger sheet of L. P. Larson Jr. Company headed "Chas. G. Buck Co., Chicago" marked for identification Larson Exhibit 184.

The witness then said: "That is all I have of a complete report where it shows the order given Mr. Buck and the invoice and the entry in the ledger leaf and check given for same."

(4894) Mr. Mayer thereupon asked the witness whether he
7358 meant that the documents he had produced at the hearing did not show all the moneys he paid to Buck. The witness answered no. He then asked that said question be read. The witness then continued:)

"The last question Mr. Mayer asked me was not consistent as to his requests of yesterday because he asked me to bring such documents that pertained to the print-
7359 ing of Wintermint labels." As I had large dealings—I may say many dealings, not large dealings, with Mr. Buck as early as 1911 and continued doing business with him until he sold his business out and went to the war, and that is the evidence that I understood in the first place that the master understood Mr. Mayer wanted to prove was not true, that we actually did do business with Mr. Buck in 1913 when we claimed Mr. Buck printed these wrappers, and Mr. Buck on the stand said that Mr. Mayer had said to him "You did not know Larson before 1915", and that is the reason, as I understand, that the master is admitting this testimony, that Mr. Buck did not do any business with Larson before 1915.

7360 (Mr. Lane objected. A discussion took place and Mr. Aldrich stated that he understood that Mr. Larson or his office had a statement at the hearing showing an itemized

statement of the Buck account from the beginning of 1913 through; that said statement was not in the papers that had been produced by the witness, and that was the reason he suggested a few minutes before that it seemed to him that Mr. Larson did not understand the question. Mr. Mayer then asked the witness to produce the statement Mr. Aldrich had reference to. The witness then produced a statement on the billhead of L. P. Larson Jr. Co. showing account of C. G. Buck & Company from January 14, 1913 to December 29, 1913. It was marked for
(4895) identification, Larson Exhibit 185. The witness con-
7361 tinued: I have not now produced all papers, writings, books, invoices, documents, books of account, subsidiary accounts, correspondence, checks, stubs or other documents in writing which will show or have any bearing on orders given by me or my company to Charles G. Buck, or any company with which he was connected, or work done by him, or any company with which he was connected, for me or the Larson Company, or payments made by me, or the Larson Company, to him, or any of the companies with which he was connected.

(Mr. Mayer then requested the witness to produce all documents of the type just referred to which he had not yet produced. Mr. Aldrich stated he declined to have
7361 that done; that he has an authorized statement and will produce the ledger sheets and checks and the bank, showing the payments from time to time, but will not bring
7362 all of Larson Company's books in. Mr. Mayer then asked Mr. Aldrich if he would permit the Wrigley Company to send someone from Ernest Reckitt & Company to examine the books, records and vouchers on that subject matter only. Mr. Aldrich replied that Mr. Mayer has got full proof here of the extent and financial transactions with Mr. Buck with reference to all purchases, money paid, and everything and the time they were paid and the merchandise sold the Larson Company. Mr. Mayer replied that he understood from the witness's answer that the full proof is not here.

(4896) Mr. Mayer asked Mr. Aldrich whether exhibit 185 was an original document, or whether it was one drawn off by Mr. Larson for the purpose of the hearing. Mr. Aldrich stated it was a statement of the account; that Larson had brought to the hearing the original ledger sheets and also the original checks and check stubs, and

that he had told Mr. Larson to make up a statement of all transactions; that he, Mr. Aldrich, was perfectly willing that the books, journal and ledger, should be used to check the statement up and see that these transactions actually took place; that the Larson Company would bring the books, journal and ledger to the hearing, but that he would not tolerate all the Larson Company's
7363 books to be brought in. Mr. Aldrich further stated that he would bring the books into court so the statement could be verified. Mr. Mayer suggested that time would be saved if Ernest Reckitt & Company would send someone to the Larson Company to examine whatever was necessary to check up on these items, but that it would be necessary for Ernest Reckitt & Company to determine what documents they wanted to examine, whether it is a ledger or journal or whatever it is, to verify the statement pro-
(4897) duced, so that it might be known whether the state-
7363 ment was correct. Mr. Mayer said that he wanted the investigation to be made, so that when he got the report of Ernest Reckitt & Company, he would know what orders the Larson Company gave to Buck for Wintermint labels and what they were and when they were delivered, and in addition to that, the total amounts paid to Buck for printing. Mr. Aldrich stated that he did not think that Reckitt & Company would confine themselves to a verification of the statement, whereupon Mr. Mayer asked whether Mr. Hall would be satifactory. Mr. Aldrich said he would permit any one to examine the books that was agreeable to Mr. Larson. Mr. Larson stated that he had no serious objection to an examination of the books; that he, Larson, would produce at the hearing a statement of every order the Larson Company gave Buck from the beginning, and every check, and that he would give that to
7365 Mr. Mayer, and the ledger leaves, to be turned over to the Reckitt Company; that the Larson Company would give to Mr. Mayer the whole business pertaining to Mr. Buck, that is the ledger leaves.

(4898) Larson Exhibit 180 for identification is for Wintermint and Peptomint box labels only and amounts to $15.00.

7366 Larson Exhibit 181 for identification is for two plates, $2.50, and for $25.00 worth of Peptomint and Wintermint box labels and for nothing else.

Larson Exhibit 182 for identification was originally typed January 19, 1916, and has been changed in pencil so as to read February 1st, 1916 and is for $43.75 and purports to be only for Peptomint cards or Wintermint cards.

(Mr. Mayer then said that the only other document purporting to be an invoice or indicating what the item is for—is Larson Exhibit 183 for identification, dated February 19, 1916 for $37.95 and covers Peptomint and Winter-
7367 mint box labels only. The master suggested that it was unnecessary for Mr. Mayer to read those papers into the record and Mr. Mayer replied that he did that so that the master could see whether or not Mr. Mayer has got the information here. The master then said he understood that Mr. Aldrich was perfectly willing that Mr. Mayer should find out and Mr. Mayer replied that Mr. Aldrich said he would be if the witness is and he, Mr. Mayer, was trying to find out from the witness whether he is. Mr. Lane then said that Larson Exhibit 185 for identification does not show what it relates to and Mr. Aldrich replied that he knew it.)

7374 The witness continued: I now produce a statement of al the business done with Mr. Buck completely, all the business done with Mr. Buck since he started in business after coming home from the war, every check given Mr. Buck since he returned from the war is on this statement. This statement is up to February 10, 1923, and it is up to date of everything on our books, and every check that I have given Mr. Buck.

(The statement, on billhead of L. P. Larson Jr. Co., of account with Charles G. Buck from June 1, 1920 to February 10, 1923, amounting to $905.25, was marked for identification Larson Exhibit 186.

7375 Mr. Mayer then asked the witness to produce any other
(4899) books, papers, checks, documents, boxes or anything
7375 in writing that he had produced at the hearing pursuant to the request theretofore made of him, so that the stenographer might mark them for identification. Mr. Aldrich said that he didn't wish the stub book covering all checks drawn for all purposes of the Larson Company marked for identification; that he was willing for the Larson Company, or in co-operation with somebody to be appointed by the Wrigley officials, to go over this account and pick out the checks to show that the transactions re-

ferred to were genuine transactions, made at the time and paid at the time they purport to be; that he was not going to put the books of the Larson Company generally in evidence. Mr. Mayer then said that he did not intend to ask anything more than to have the particular check book or stub book marked so that it can be identified so that when the auditors examine, there will be handed to them a book and they will be told the check book is supposed to be marked exhibit so and so. Mr. Lane then said that he would have the book sealed so far as the Wrigley Company is concerned and Mr. Mayer said he did not care to look at it at all. Mr. Larson then stated that he was
7376 willing to produce each book corresponding to each item paid Mr. Buck, if that would be satisfactory. The master stated that the Wrigley Company desired more; that it wanted to know whether or not the Larson Company had correctly listed every check or every payment, and that without an examination of some of the Larson Company's books, the master didn't know how they could determine that. The witness then said he would bring the ledger leaves from which he had copied the statement marked Larson Exhibit 186 for identification. The master then asked Mr. Larson and Mr. Aldrich if there was any ob-
(4900) jection to an accountant going to the Larson Company, with somebody from the Larson Company present, to make the examination of the Larson Company's books. Mr. Aldrich said he would rather do that than spend more time on what Mr. Aldrich said was a foolish investigation. The master then said "Let that be done," and he then asked Mr. Mayer whether he offered the check books in evidence and Mr. Mayer said he did not. The master then said the accountants could tell whether or not the state-
7377 ment was correct. Mr. Mayer said he wanted to know that and what the items were for. Mr. Aldrich said they could have everything that was legitimate and right, and he didn't believe they would ask for more than that and that Mr. Vincent could be present. The witness continued:)

7378 The two statements of account, the one now marked
(4901) Larson Exhibit 185 for identification, and that marked
7378 Larson Exhibit 186 for identification, do not show all payments made by me or on my behalf, or by the L. P. Larson Jr. Company, or on its behalf, to Charles G. Buck

or his company, at any time, beginning January 14, 1913,
and down to date. The fact is this. I brought here a
7379 statement of all the business we did from January 1,
1913 to December 31, 1913. I mean now the document
that is marked for identification Larson Exhibit 185.
Then I have brought a statement at Mr. Mayer's request
to show all the business that we had done with Mr. Buck
since his return from the war, and that is from June 1,
1920 to February 10, 1923. That is shown on Larson Ex-
hibit 186 for identification. We had business dealings
with Buck between December 29, 1913 and June 1, 1920,
which are not shown on either of the two exhibits last de-
scribed, or on any other document that I have brought
7380 here. I was asked to produce full information as to my
dealings with Buck during that intermediate period,
namely, covering the years 1914 and 1915, 1916, 1917, 1918
and 1919, all of which I now say have been omitted. I
will state the reason for that. I had prepared these docu-
ments before today and the reason of that was to show the
business we had done with Mr. Buck in 1913 which Mr.
Mayer once asked me for, and then the business we had
done with Mr. Buck since he returned from the war, and I
did that. Now, there is 1914 and 1915 and 1916. Then
7381 Mr. Buck went to war and he sold out his business. Now,
I can have the 1914, 1915 and 1916 statement here this
afternoon so Mr. Mayer can have a complete statement of
all the transactions covering the entire period. Larson
Exhibit 185 and Larson Exhibit 186 were prepared yes-
terday morning. Mr. Aldrich said he supposed these two
(4902) documents covered the entire account. The master
7382 then said he was under the same impression but it seems
that they do not and that the witness says he can produce
it by two o'clock and when that is done the documents can
all be turned over to Reckitt at the same time. Mr. Mayer
acquiesced in that suggestion. The witness continued:)

I understand that with the statement that I am going
to prepare added to Larson Exhibit 186 for identification
and Larson Exhibit 185 for identification, I will have pro-
(4903) duced here a full, correct and complete statement
7382 showing all payments made by or on my behalf, or by or
on behalf of my company, to Charles G. Buck, or his com-
pany, or on behalf of him.

7383 April 20, 1923, 2 o'clock P. M.

I now hand Mr. Mayer a statement of all the business we have done with Mr. Buck except what we have already
7384 handed in. The statement I have just produced begins November 23, 1911 and seems to run down to February 24, 1913. The only other document that I have produced here this afternoon purports to be a statement of my company with Charles G. Buck Company, beginning January 20, 1914 and running down to August 27, 1917, showing credits the footing of which appears to be $4,098.51, and the balance of that same document appears to be a statement of cash payments made by my company to Charles G. Buck Company beginning January 24, 1914 and ending September 1, 1917, and showing a total of $3,992.76. (The first statement covering the period from November 23, 1911 to February 24, 1913, was marked for identification Larson Exhibit 187, and the other statement produced by the witness, was marked for identification Larson Exhibit 188.)

(4904) WILLIAM HENRY STANLEY resumed the stand
7385 for further direct examination by Mr. Mayer:

Page 31 of Wrigley Exhibit 92, Benington 1, refers to United Profit Sharing coupons of the Wrigley Company, and also refers to Marwick, Mitchell & Company's report, page 126, and also to a "revised chart prepared by the Wrigley Company." I know what that revised chart is
7386 to which that page 31 refers. It is the original figures we used in our accounting presented to the master and a new chart we have prepared rectifying errors that we discovered since the original accounting was filed by us. Those errors were of a clerical nature—additions, subtractions and also a rectification of denominations, some coupon denominations having been put under the wrong column.

The figures used in page 31 of Wrigley Exhibit 92, Benington 1, with respect to the redemptions of our coupons are correct. They are based on the revision which I made in the U. P. S. chart.

I have prepared a statement showing the number of United Profit Sharing Coupons of the different denom-

inations issued and redeemed by the Wm. Wrigley Jr. Company in connection with its business down to date. I have brought that down to the end of February, 1923. For the purposes of convenience I have also put on the same sheet similar information with regard to the years 1914 to 1918, both inclusive.

(The witness then produced said statement. It was offered in evidence by Mr. Mayer, received in evidence and marked Wrigley Exhibit 102.)

7388 (Wrigley Exhibit No. 102.)

(4905) Our book reserve for contingent liability for U. P. S.

7389 Coupons on March 1st, 1923, was $6,918,374.63. That was made up in due course of the company's business using as a basis of contingent liability the supposition that 60% of coupons issued originally would in the course of time be redeemed. Our experience has been that the longer the coupon service remains in action the higher in a productive manner is the redemption of coupons. That is all shown on the exhibits in this case to a certain extent.

7390 The controversy we had with the Government on the question of our accounts for a 60% reserve made us go into the question very deeply, and we are still convinced in our own minds that 60% reserve is what we should set up, and we are continuing to set up with the approval of the Government 60% of the total value of the coupons issued.

Our experience shows that in spite of a decreasing amount of sales the amount we have to pay out for redemption of coupons increases year by year and has done so up to date.

In our figures for the actual cost of U. P. S. Coupons we included the amounts we paid out for printing coupons.

7391 I might add that the printing figures are not large in comparison with the amounts we give. The amounts paid out are as follows: 1914, 5,629.60; 1915, 220,703.67; 1916, 516,215.21; 1917, 636,969.69; 1918, 568,671.21; 1919, 677,-125.16; 1920, 798,312.30; 1921, 929,084.84; 1922, 1,043,-752.75.

The figures I have given cover the redemption and printing of all coupons issued by us in connection with the United Profit Sharing Corporation's contract with us.

(4906) The same thing is true as to the figures shown on Wrigley Exhibit 102. That is, as to the coupons issued

7392 and redeemed without dollars and cents. We are packing United Profit Sharing Coupons today and since the accounting period with the same brands they were packed with during the accounting period, and have continuously done so, but we have added other brands since the accounting period to those with which United Profit Sharing Coupons are packed. The additional brands I referred to are ones that are sold with coupons, such as, for instance, Wrigley's P. K's.

In the figure that I have just given as representing the amount actually paid out for redeeming and printing U. P. S. coupons I gave the amount as $568,671.21 for the year 1918. In 1922 I say we paid out $1,043,752.75. Each year, beginning with 1918, the amount we have so paid out for redemption of coupons has been increasing. In 1922 it was approximately $250,000.00 in excess of what it was in 1920. I have said that our sales have been declining in recent years. 1920, I believe, was the peak of
7393 sales for our company. They have fallen off annually since then; so that while the sales were diminishing the amount that we have paid out for redemption of U. P. S. Coupons was constantly increasing.

I have made an investigation of the trend of the number of coupons required to redeem specific articles during the accounting period and since. In that respect from the catalog of the United Profit Sharing Corporation issued since the middle of 1914 and up to date I have chosen some sixty to seventy premiums which are common to all those catalogs. I did not use those premiums on a selective
(4907) basis. We took from each letter of the alphabet a number of premiums promiscuously so as to get a general idea without going into every item in the catalog. The
7394 list was not prepared with the idea in view to see the result as applicable to articles that were common to all those catalogs that were issued during the entire accounting period and to date. The list was prepared to give us a general idea of the increase or decrease or discontinuance of certain premium articles. These lists were prepared without the object which I used them for recently, and I personally went over these lists to find out which premiums were common to all catalogs. In other words, they had been continuously offered to the public in exchange for coupons since we entered the United Profit Sharing Corporation's scheme down to date.

On the lists I prepared there were 67 articles which are common to all the catalogs issued by the United Profit Sharing Corporation since June, 1914, up to date. The
7395 67 premiums which are identical through all the catalogs required in the period from January, 1914, to September, 1916, 33,910 coupons.

At the close of September, 1916, a further catalog was issued and was valid until May, 1917, the same premiums requiring 38,365 coupons.

The catalog following the May, 1917, was valid until June, 1918. The number of coupons required for the same 67 premiums was increased to 44,370.

In June, 1918, there was a catalog issued valid until December, 1918. The number of coupons for the same premiums being increased to 48,310.

The next catalog was good until June, 1919, and for the same premiums 51,770 coupons were demanded.

(4908) The following catalog was valid until June, 1920, the 67 premiums requiring 55,645 coupons.

June, 1921, was the date of expiring validity of the next catalog, and for the same 67 premiums 70,845 coupons were required.

The next issue of premium catalog was valid until June, 1922, and the same number of premiums necessitated 57,020 coupons.

The next catalog which is valid until June, 1923, requires for the same number of premiums 56,600 coupons.

7396 In other words, the same premiums during the period from 1914, January, until June, 1923, required a minimum of, in the first catalog, 33,910, a maximum during the period from June, 1920 to June, 1921, of 70,845 coupons and a present number of 56,600 coupons.

(Mr. Lane then asked the witness whether his experience, either in watching redemptions of coupons or as reflected in any of the exhibits he had produced at the session that day in any wise caused the witness to change or modify the opinions which he had expressed in the record as to the amount of redemptions of U. P. S. Coupons which the Wrigley Company may ultimately have to pay for. Mr. Aldrich objected. The objection was overruled.

7397-8 The witness answered No.)

(4908) Mr. Aldrich then said "I do not wish to cross-ex-
7398 amine this afternoon. I want Mr. Vincent now or Touche, Niven & Company to go on the books and (ad-

dressing Mr. Stanley) they will be offered every facility with reference to these matters, will they not?" Mr. Mayer and Mr. Stanley both answered in the affirmative. Mr. Stanley also stated that the working papers used in the preparation of the exhibit concerning which he had been testifying were preserved as a part of the permanent record of the Wrigley Company, a part of its books of
7399 account. The following then occurred:

Mr. Aldrich: Yes, and Mr. Vincent or whoever does the work from Touche, Niven & Company will advise you what he wants to see.

A. All right.

(4909) (CHARLES H. ALDRICH resumed the stand for
7399 cross-examination by Mr. Mayer.)

In my testimony yesterday I referred to certain affidavits which have now been marked for purposes of
7400 identification, and which I believe I now have before me. The affidavits I now have before me, the three affidavits in question, are original documents. So far as I know they are in the same condition now as they were at the time when they were made up to the present. I have no reason to doubt it. The affidavits were prepared by me, I think. I have no doubt I dictated them with the person present who signed them with the exception of Mr. Haas, that affidavit I believe, although I cannot say that I have a positive memory on that, I was told of the facts, prepared the affidavit and I think that he came to to the office and signed it before Mrs. Loveless afterwards without my seeing him. I have no recollection of ever meeting him. I met Mr. Caulfield in my office. I believe it was Mr. Larson who told me of those facts in connection with the Haas affidavit. Each of the three affidavits in question purports to be sworn to before A.
7401 G. Loveless as a notary public. A. G. Loveless is Mrs. Loveless who has been a witness in this case and who has been for sixteen years or more my bookkeeper, and she calls herself my secretary I believe. She is still in my employ. She is a stenographer and has been during all that time.

I did not intend by anything that I testified to yesterday to say that the facts set out in those three affidavits

were true. I, of course, would not have had the affidavits prepared had I had any doubt of any of the facts, I did not mean by anything I said to say that I personally knew about the facts except I might look over the affidavits and there are doubtless some things in it that I
(4910) know about. I don't pretend to have any personal
7402 knowledge as to who made any of these Wintermint labels or counterbands or when they were made or to what extent they were made.

Mr. Caulfield is a very high type gentleman, and I believed him when he told me about the facts and then there were produced to me the memoranda of sales, and so forth, which seemed to me as I prepared the affidavit in accordance with the facts. I do not wish to go further than that, Mr. Mayer. By further than that I mean I do not wish beyond saying that I have no personal knowledge and that all I do know is what I was told by Mr. Hass or other affiants or learned by documents exhibited to me.

I have no recollection of meeting Otto J. Haas, but I know that the affidavit was acknowledged in my office. I would not say positively that I never met him, but I could not recollect ever meeting him. I do not know
7403 where Otto J. Haas is now, whether he is living or dead. The Haas affidavit to which Mr. Mayer has been referring, and which is marked for identification Aldrich Exhibit 2, is the same document I have been referring to.

The Caufield affidavit to which I referred is that which has been marked for identification Aldrich Exhibit 4. With respect to Caulfield's affidavit, Mr. Caulfield was in my office, stated the facts, and as he stated them, with my stenographer by me, I put them down in the shape that is in that affidavit. I have before me Aldrich Exhibit 1, April, 1923. That is one of the three affidavits
7404 which I have identified under cross-examination. It purports to be an original affidavit made by L. P. Larson Jr. and sworn to before Mrs. Loveless as a notary public on the 19th of July, 1915. I got part of the information set forth in that affidavit, I have no doubt, from Mr. Larson, perhaps all of it. In making this answer I do
(4911) not want to exclude the confirmatory, as I regeard
7404 them, exhibits attached thereto. The affidavit of L. P. Larson Jr. refers to a Charles G. Buck, as a person who prepared a limited number of Wintermint wrappers for

the affiant L. P. Larson Jr. I understand that that Charles G. Buck is the same person who testified as a witness in this case in behalf of the L. P. Larson Jr. Company. I did not meet Mr. Buck at that time. I believe there is attached to all of the affidavits that I have
7405 identified here as exhibits, what purports to be a copy of an individual stick Wintermint wrapper and also what purports to be a copy of a Wintermint counterband wrapper. I think that such is the fact. I have not any distinct memory as to who furnished me with those three individual wrappers and with those three counterband wrappers. It would only be saying that I assume that Mr. Larson did. It would seem from —I do not want to reason with you at all, but it would seem from the fact that each of the counterbands or wrappers bears also, as I hastily glanced at them now, the signature of the person making the affidavit, that it might be either Mr. Larson or the person making the affidavit. I mean that they purport to bear the signature of the maker of the affidavit. As
7406 to whether in one instance, for instance, in the Larson affidavit for identification Aldrich Exhibit 1, the individual stick wrapper has written on it the name "L. P. Larson Jr., affiant", I will say I did not inspect closely the signatures. I don't know anything about that. It is a fact that on the same affidavit the Wintermint counterband label does not have Larson's name written entirely on the label, but it looks as if a few of the letters of his name, namely, "L. P. Lar" are written on it. I want the master to note that is Mr. Larson's signature and has run off over on the paper.

As to whether I would claim that Caulfield's name in (4912) the Caulfield affidavit is written in full on either one
7406 of the exhibits, I will say I am not engaged in any cheese paring. I am simply saying it is written in connection with the exhibits. I am familiar with the handwriting of L. P. Larson Jr. I don't think I ever saw Mr.
7407 Caulfield's writing except at that time, and I don't know that I could swear that I stood by and saw him sign it because I do not give myself much to that kind of work.

(Mr. Mayer then drew Mr. Aldrich's attention to the fact that the handwriting of J. A. Caulfield as signed to the affidavit itself was manifestly entirely different from

the names as written "J. A. Caulfield" on the exhibits, and asked Mr. Aldrich whether that would refresh his recollection, or whether he would care to change any of his testimony or add anything to what he had said.)

I have not testified on that subject. I do not think myself that part of those letters look as though they were written by the same person. I cannot express any opinion on that and I would rather send for Mr. Caulfield and ask him the facts. I would not express an opinion. I could not say that I even saw either of the signatures written. I know that Caulfield was there when I prepared his affidavit and that it was the same man whom I afterwards examined in the trial of this case in court.

7408 (Mr. Mayer then called the attention of Mr. Aldrich to the appearance of the signatures on the two exhibits to the Otto J. Haas affidavit, and asked him whether he thought the same hand wrote the Caulfield name on the exhibits to his affidavit as wrote Haas' name in connection with the exhibit to Haas' affidavit. The witness answered that it might be but he didn't know.)

7408 My attention being drawn to the Wintermint label and
(4913) counterband attached as an exhibit to L. P. Larson
7408 Jr's affidavit, and being asked whether in my opinion the signatures "L. P. Larson Jr." wholly or in part on the Wintermint label and Wintermint counterband exhibits are in the handwriting of L. P. Larson, Jr., I will say I think they are, but I would not swear that they are or are not. I believe they are.

(Mr. Mayer then asked Mr. Aldrich to state what his entire interest in this case is and Mr. Aldrich replied that he would not do so unless the master requests that he shall and that he will obey the master's ruling. Mr. Mayer then stated that inasmuch as Mr. Aldrich had
7409 volunteered himself as a witness in this case and has testified to a matter that is material and that the master has ruled is material, and that there has been traced into his custody documents, the materiality of which has been passed on by the court, he, Mr. Mayer, ought to have at least the same right to ask Mr. Aldrich what his interest in this case is as he would have with reference to any stranger. Mr. Aldrich then testified that he had no hesitancy in saying on the record that he had an interest in the recovery in this case, of which he had

given the Wrigley Company notice which was already in the record. Mr. Mayer again asked Mr. Aldrich to state his entire interest in this case and Mr. Aldrich declined to do so without the master's ruling. The master
7410 thereupon overruled the objection and Mr. Aldrich tesified that he had taken this case on a contingency, under the terms of which he was to have one-third of whatever the Larson Company might procure in this case, whether by way of judgment, settlement or otherwise.

"Q. (My Mr. Mayer) And you still have that same interest, have you?

A. Well, yes, it is in my name."

(4914) Mr. Aldrich further testified that his interest was
7411 still onethird of whatever might be received or recovered, and that when he said the interest was in his
7412 name, he meant that he had obligations which he would have to pay out of his interest when he received it; that those obligations were not to any auditor or to anybody that has been a witness in this case; that he had no other
7413 financial interest in the outcome of this case in addition to what he had stated.

Mr. Mayer then asked the witness:

"Q. Are you not a creditor of the L. P. Larson Jr. Company—I mean a debtor? Do you not owe the L. P. Larson Jr. Company?"

Mr. Aldrich objected to the question and Mr. Mayer
7414 stated that his object was to show that Mr. Aldrich is heavily indebted to the L. P. Larson Jr. Company and that because of that indebtedness it makes him interested in the outcome of this case in addition to what he has stated. The master sustained the objection. The witness further testified: that he was not a stockholder in the L. P. Larson Jr. Company, and not interested in its stock in any way; that he didn't know but what one share of stock was at one time transferred to him; that he didn't own it and it was not in his possession, and that he had not employed anyone in this case on a contingency.

Mr. Mayer then asked Mr. Aldrich if he would admit of record that the L. P. Larson Jr. Company instituted in the United States District Court for the Northern Dis-
(4915) trict of Illinois, early in 1917 in action at law against
7415 Wm. Wrigley Jr. Company for about $1,250,000 dam-

ages alleged to have been sustained by the plaintiff because of the alleged wrongful suing out by the Wrigley Company of an injunction against the Larson Company before Judge Carpenter in 1911 in the Wrigley Company suit against the Larson Company involving Wrigley's Spearmint labels and Larson's Peptomint labels, and Mr. Mayer also further asked Mr. Aldrich if he would stipulate that said action at law had never been tried and that no evidence was taken therein. Mr. Aldrich replied that he thought Mr. Mayer's statement was correct. Mr. Mayer then asked Mr. Aldrich as a witness whether his financial interest in said action at law was the same as his fianancial interest, which, according to Mr. Aldrich's testimony, he had in the case being heard. Mr. Aldrich replied that his contract covered both litigations.

7416 April 24, 1923, 2:00 o'clock P. M.

The master made the following statement:

"At the session on April 20th it was understood that counsel for the Wrigley Company could send its accountants to the office of the Larson Company and make cer-
7417 tain examinations of the books and records of that company relating to the testimony of Charles G. Buck, and that the Larson Company might also have an accountant present there at the time if it so desired. Pursuant to that arrangement, Mr. Benington on Monday went to that office to make the examination he desired to make, and I understand there is some disagreement between counsel in the case as to what the accountant is entitled to examine. Mr. Benington is now here and I will ask him what progress he has made in his examination of the records of the Larson Company in respect to the matter I have just mentioned".

Thereupon, HAROLD BENINGTON resumed the stand for further examination by the master, and testified):

On presenting myself at the office of the Larson Company I had submitted for my scrutiny nothing except the
(4916) loose leaf ledger sheets on which are recorded the
7417 payments and credits to the Buck account. These sheets do not furnish any other information other than dollars

and cents, no entry of any description. It is therefore
7418 impossible for me from those sheets alone to ascertain anything in regard to what the volume of business done with Mr. Buck had been or in regard to how much of it related to Wintermint labels. I am just a little uncertain who informed me, but I will put it this way. I was in conference with Mr. Larson, Mr. Clutton, Mr. Vernon and Mr. Welch, the last three gentlemen being employes of the Larson Company. Sometimes Mr. Larson was present and at other times he would retire to his own office so that I am not always sure as to who was responsible for the statements made to me, but one or the other of these gentlemen told me that the invoices for the merchandise supplied by Buck were not in the company's possession or had been mislaid, the explanation being that all of these documents, together with others relating to the present suit, had been segregated and put into a receptable by themselves, I think they said in 1919, and that later on when this was looked for it could not be found and they had been unable to locate it. They also informed me that their general files of vouchers and subsidiary papers of that sort prior to 1915 had been destroyed, but that since 1915 they had them. They did supply to me the cancelled checks substantiating the payments made to Buck.

7419 That left me somewhat in a quandary as to how I could get the information regarding the details of the transactions between Buck and the Larson Company, and after thinking matters over I asked Mr. Larson personally whether he had not any other records by which this information could be arrived at. I suggested
(4917) to him that he might have shipping records or corre-
7419 spondence or something of that sort bearing on the subject, but he was of the opinion that he did not have anything that would shed any light on it. I then suggested that if he would let me have access to his sales records, I could ascertain from them the quantity of Wintermint gum which had been sold during each period in question and that I could then ascertain—translating that into terms of labels you see—I could then ascertain from the records of the Kittredge Company how many of those labels had been supplied by them, and the difference between the Kittredge figures and the total sales would, of course, give inferentially the number of labels

supplied by Buck, as I understand that Mr. Larson has testified that only those two firms printed labels for him. Mr. Larson did not positively refuse to let me have those records, but he simply said that I would not get anywhere with such an inquiry, that he did not think it would be of any use to me, and I pressed several times. I was trying to put him on record as either re-
7420 fusing to let me see the records or else definitely acceding to my doing so, and he himself suggested that I should come here, tell you how the matters stood, and if you think that I should see these records, it would be all right or words to that effect. To get all necessary information to show the transactions with Buck and all the surrounding circumstances I ought to have before, of course, the documents which are stated to be missing. I do not mean the sales record. I was going to say that I ought to have documents that are missing, but in their absence—those that cannot be found, I should have the sales records, any shipping records which they maintained covering the period from 1913 up to whatever date this inquiry is to run, any inventories that they may have on file and any journals, cash books or ledgers relating to that period to which I might have reason to
(4918) refer. I don't know that I should want to refer to
7420 them, but I think if this inquiry is sincere, and so on,
7421 that I should not be debarred from looking at them. As to what I specifically require to ascertain the facts, I will say the only difficulty there is, records are described somewhat differently by different people and there are different classes of books. I don't know just what books they used, but I certainly should have their sales books or sales journals and their shipping records. Those are essential. I don't know what I shall have to refer to their general ledger or their general journal or their cash book, but that might become necessary. What makes me mention that is that yesterday they did produce for my inspection, after first being of the opinion that the book had been destroyed, they finally did produce a journal covering the year 1913 and part of 1914, and this book did have records of payments to Mr. Buck, but when I tried to cross check those items against these ledger sheets that they produced for me they did not check, the dates and amounts do no cor-
7422 respond. Now, I am not making any insinuation in

regard to that. That only came to my notice after I spoke with Mr. Larson this morning, my employe who is doing the work told me about it afterwards and Mr. Larson may be able to explain that, but I merely mention it now as showing that in order to thoroughly investigate these transactions I might have to call for these journals. I should add that if they have any production records, those should be submitted, or any other records tending to show the quantity of labels produced and used.

Cross-Examination by Mr. Aldrich.

As to who gave me instructions as to what I went there to examine, I will say I had my instructions from
(4919) Mr. Lane, and in order to make sure that there should
7423 be no misunderstanding, I, on his suggestion, called up Mr. Aldrich before I went over to the Larson Company and stated to him over the phone that I gathered that what I was to do was to ascertain the amount of labels which had been supplied by Buck, and Mr. Aldrich replied no, that was not his understanding, and I said what was it then. And then Mr. Aldrich restated the proposition in very much broader language. He said that he understood that I was to inquire into the transactions which had taken place between Buck and the Larson Company and all the circumstances surround it, and I then asked Mr. Aldrich whether he wished to have an accountant present as representing his interests, and he said no, he did not think that would be necessary, he was perfectly content for me to go ahead. I didn't understand Mr. Aldrich to say that he limited the inquiry to the sales of Wintermint labels in December, 1913. I am perfectly sincere in saying that I have no recollection of a year being mentioned at all and it would
7424 have certainly made an impression upon my mind because the instructions that I had from Mr. Lane were to take it from 1913 onward, and, as I have already said, I am a little uncertain as to what the termination date is to be. I am going to ask for instructions on that now.

I understood in a general way that Mr. Buck's testimony so far as it purported to reflect on Mr. Mayer was

the basis of any right to examine these books. I will add this. I have not read the Buck testimony with any degree of care. I did just glance it over some months ago. I was not present at this hearing a few days ago when this examination of the Larson books was determined on, so that I cannot stand any very close cross examination upon just what the basis of it was, but replying to your (Mr. Aldrich's) question, Mr. Lane only told me in very general terms that the matter had been up at the hearing
(4920) and that in connection with the insinuations which had
7425 been made in regard to Mr. Mayer's dealings with Mr. Buck that it had been determined, and by consent of the master, that these matters were to be looked into. I did not understand that I was to go over and make such an examination of the books from 1912 or 1913 on to the present time as would enable me to report on the Wintermint sales. I understood I was to examine the Wintermint sales only so far as those cast light on the labels printed by Buck. I was to ascertain the total number of Wintermint labels that had been ordered from Buck. I don't think it is correct to say that I proposed in connection with that to ascertain the total number that had been purchased from Kittredge, or that I proposed to ascertain the labels on hand, and from that ascertain the Wintermint labels that had been used
7426 in the sales of Wintermint gum in connection with the sale of Wintermint gum. I don't like it put that way. I mean I went there to ascertain what had been the purchases by the Larson Company from Buck, and failing to find on file the usual, customary details which would supply that—records which would supply that information—I have now suggested that as a means of getting at that information I shall do, not quite what you said, but I shall now ascertain from the sales records what were the total number of boxes of Wintermint sold, and other brands, and translate that into terms of labels, deduct from that the total of labels,—not necessarily Wintermint labels. I should have classified the sales of other gum probably, or possibly. Having gotten at that, I would deduct from such total, the number of labels which the Kittredge Company's records show them to have supplied, and the balance will, as I have already inferentially said, be the number supplied by Buck, but you put it—what I objected to, you put it the other way around,

as though I was building up a lot of things to arrive at the sales, whereas, I am merely using the sales in getting
(4921) at the purchases. As to whether I have enlarged my
7427 statement as addressed to me by Mr. Aldrich in the last question by showing I intend to investigate the account between Kittredge and Buck and the Larson Company as to Peptomint labels, also so as to separate between the Peptomint labels and the Wintermint and the Spearmint labels, and so forth, the amount that has been used in Wintermint, I will say I did enlarge my phraseology to include that, but I now withdraw that. It will not be necessary as I understand it, but in fairness to everybody concerned I must explain that to the master. I say it won't be necessary. When I say that I am assuming that the Kittredge Company can, from its own records, tell me the number of Wintermint labels that they did supply to the Larson Company. If they can give me that information, it will certainly be unnecessary for me to go into the question of how many Peptomint and other brands, or how many labels for Peptomint and other brands they used. When I went over there, I was ac-
7428 companied by a Mr. Russell. When I went over there there was some more or less jocular talk with Mr. Larson along the lines that he told me it would be necessary to put on old clothes, or something of that kind, as there were a whole lot of invoices that would have to be dug out and that they were full of dirt and dust, or something to that effect, but Mr. Larson said at the finish as a matter of fact he did not think we needed to get very dirty because he had already had his employes do the dirty work and dig out what they thought would be pertinent to the inquiry. I wanted invoices more particularly as to 1913 and 1914. Mr. Larson told me he gave me all that there was of Buck's that he could find, but he explained, as I have already testified, that those that he had were only, as I understood it, a few that had sort of escaped the massacre which had been perpetrated upon them
(4922) when they were all set aside for the purpose of this
7428 case. Mr. Larson did not tell me that after Buck had printed the labels in 1913, he printed more Wintermint
7429 labels in 1914 or 1915. I did not understand that Buck's printing for the Larson Company was confined to Wintermint labels. It evidently was not.

I have said that the journal and the ledger do not check

with each other. As to whether I mean by that that I found some entries on the journal in addition to those that were on the ledger, I will say, I cannot speak with certainty on that because I am repeating what my employe, Mr. Russell, reported to me. He said that he tried to check the posting from the journal to the ledger and that the dates and amounts did not correspond and that the Larson employes attempted to agree them and were unable to do so, and I added that I thought it was very likely that Mr. Larson who had not yet been informed of this happening, would be able to shed some light on it and that I particularly did not want to draw any inferences from the fact that the things did not agree, I did not want to draw any conclusions at this time. As to whether it is a fact that when Mr. Larson handed me the
7430 invoices, I asked him if the Wintermint invoices were in there, and he told me that there were no Wintermint invoices in there, and I expressed, in effect, that I did not care for any others than the Wintermint invoices, I will say I do not remember putting it that way. I may have said that the Wintermint invoices, of course, were the ones I was mainly interested in.

I want to explain at this point that, of course, I take it that I am to make an exhaustive examination here, and using the ledger account as a basis I should naturally not —I am not in a position to put Mr. Larson under oath or anything of that sort, I am not relying upon his testimony and I did not pay much attention to what he told me about things. What I wanted was to take the recorded credits
(4923) in the Buck account and see each invoice relating to
7430 those so that I could judge for myself by looking at the details on it as to whether it did or did not contain any charges for Wintermint labels. As to whether it is a fact that Mr. Larson offered me all the Buck invoices for 1912, 1913 and part of 1914, I will say, most emphatically no, not as I understand it. Let me explain here that our
7431 minds may not have met on that, but I understood most emphatically that you Mr. Aldrich, claimed from the very start that these invoices had either been destroyed, or that they had been put away in this receptacle you know which has been lost and you did show me—Mr. Larson did show me certain scattering invoices which I understood were simply samples—examples, not samples—and I scrutinized those in just a casual sort of way, but it was

never suggested to me, and I don't think it will be now, that those were all the invoices representing the purchases made from Buck during the years 1913 and 1914.

(Mr. Aldrich then stated that he held in his hand a bunch of invoices that had been prepared in connection with Mr. Benington's coming and he, Mr. Aldrich, was advised that they were tendered to Mr. Benington, and that Mr. Benington asked whether or not there were Wintermint invoices in there, and when Benington was told that there were not, Benington said that he did not want them, or words to that effect. Mr. Aldrich then asked the witness what was the truth on that. The witness continued:)

Of course, I cannot identify these invoices, but I did see a group of invoices something like these and I did
7432 glance them through, but I think that if the file was incomplete it would be useless for my purpose particularly as it did not contain the Wintermint, and if I undertook to simply accept selected documents which Mr. Larson handed to me, I should have passed out of my sphere as
(4924) an accountant and been sort of taking testimony. I
7432 wanted a complete record or nothing. I don't want to be understood as advising the master that I cannot take
7433 the check book or cancelled checks and verify the payment to Buck of every item in the account which was presented in court here between the Larson Company and Charles G. Buck as having taken place at the time shown by the books of the Larson Company. I do not wish the master to so understand at all. I most certainly can. By inspection of the cancelled checks which I have previously stated were submitted to me I can satisfy myself that those amounts of money were paid to Buck on the dates as recorded in the ledgers with this one qualification which I do not regard as very important, that in some cases the checks themselves are not to be found, but the detail does appear upon the stub of the check book and such stubs appear to me to have been made out in the due course of business and they have nothing irregular about them. Of course, that does not answer, at least that does not furnish in any way the information which I understand it is desired that I should get. As to whether it is right to say that I was to make an exhaustive examition of the Larson books to determine how many labels had been purchased from Buck, I will say I don't want

7434 to be understood when I used the word "exhaustive" I meant it in relation to the invoices. In other words, if Mr. Larson could have produced to me Buck ledger account, second, all of the invoices referring to the items entered in that ledger account, then by making an exhaustive examination of those invoices and without referring to a single other record of the company I could one hundred per cent determine how many Wintermint labels had been bought from Buck, but as those labels are not there, any examination of an incomplete file of invoices is totally unsatisfactory and lands me nowhere. In effect it is true to say I told Mr. Larson, in the presence of other (4925) people over there, that all I wanted was the Winter-
7434 mint invoices. That is what I do want, but if I am sent on behalf of the court or the parties to a suit to ascertain, there is only one way to ascertain and that is by exhaustive examination of the invoices and satisfying myself which are the ones which contain charges for supplying Wintermint labels. I could not rest upon the assurance of Mr. Larson that here was a little pile that did or did not contain that. That would not be an independent examination of the documents. As to whether when I turned away from these Buck invoices, stating that I wanted only Wintermint in effect, it was natural that Larson did not look farther for further Buck invoices
7435 at a later period, I will say I am not making any charge that Mr. Buck refused to look for them at a later date, though I did understand him to say that those invoices of a later date so far as they referred to Wintermint labels had been put away in this special receptacle that we have been talking about. But I may have misunderstood him on that. If Mr. Larson did not say so, certainly Welch or one of the other boys said so. Mr. Lane did not tell me that they wanted very general information, very full information on certain subjects and wanted to get into the books for that purpose. Mr. Lane told me just what I have stated here and nothing else. Mr.
7436 Lane received suggestions from me where to look, for the purpose of ascertaining the quantity of these Wintermint labels supplied by Buck. Of course, I should extend that and I do understand that that was the principal cause, but I did understand that I was to look into the nature of all the company's dealings with Buck, and I understood that I should go back to the date at which the

company first dealt with Buck, which I think that Mr. Larson reminded me this morning at some stage in the proceedings Mr. Mayer suggested he had never known Buck and never had any dealings with him prior to 1914.
(4926) (Mr. Aldrich suggested that the witness should have
7436 said 1916 instead of 1914. The witness continued:)

I don't know what that was, but I understood this was to go back and cover the whole period during which business had been unchanged between Buck and the Larson Company. I am a little uncertain about the terminal date of the investigation. I am sort of uncertain in my mind as to what was said about that. I had in mind up to the end of the accounting period involved in this suit. I was
7437 given accounts drawn off from the Ledger by Larson. Why I speak a little uncertainly is because of this: The whole thing happened in a few minutes. Mr. Lane just called me aside and said this was to be done. He said "You had better go over to the master's office and get those exhibits that were put in", and I was rather hazy as to what they would consist of, and I came over here and saw the court stenographer who then handed over to me three affidavits and two or three other exhibits. Some of the exhibits were statements of account, and without giving them any very close scrutiny I took them away and started out to see the Larson Company and I turned them over to Mr. Russell, my assistant, and I did not look at those statements of account closely so that I have not the faintest idea up to what date this went. I don't know
7438 whether the Larson Company has all the recent invoices from Buck. I think they told me from 1919 onward they did have all the invoices, but I am merely concerned about this earlier period where there seems to be a complete lack of information, and without a starting point, of course, I cannot do anything. I have not yet ascertained that Buck printed any Wintermint labels after December, 1913, until 1915 or 1916. I don't know whether any have been mislaid or destroyed or anything of the kind. I am merely repeating what was told me, that if there were any
(4927) —I don't say there were any—it was a very general
7438 statement, you are pinning me down rather tight on this and I am merely in good faith telling you the purport of a conversation that went on at the Larson Company's offices, the general tenor of which was that any papers, any invoices that seemed to relate, as I understood it, to

this suit between the Wrigley Company and the Larson Company, at some date uncertain but probably about 1919, had been carefully sorted out of the general files for safe keeping and had been put away in a special recep-
7439 tacle and that that might account as we went through for certain Buck invoices being missing because they had been treated in that way and were now lost, and so forth. As to whether I was to be understood as saying, when these invoices were shown to me a moment ago, that I was only looking for Wintermint invoices, I will say, if I am an assayer and you bring me some ore and say "Assay this for gold", I promptly go through my motions and tell you whether there is gold in it. If you come to me with some ore and say "I tell you beforehand there is no gold in this", I should not go through the trouble of testing it at all. I would be willing to take your word for it. As to how I knew that all the money that had been paid Buck as shown by the account and by the ledger and the cancelled checks was not included in the invoices presented to me, I will say, I have never said they were not. I have every reason to believe they are. I don't question it for one minute. My difficulty in checking up the Larson account with Buck is simply that the ledger account merely records dollars and cents, and I
7440 understand the attorneys in this case want to know the quantity of the labels and other material involved in the payments. They want to know, not how much was paid him, but what it was paid him for, and I can only ascertain that, in the absence of the original records, which would have disclosed that information, by going through
(4928) this somewhat round about method that I have out-
7440 lined to the master. It is because counsel want to know that, that I have taken this course. That's what I went there for, and, of course, I went there to see the amount of money which is also involved.

7443 May 1, 1923, 10:30 o'clock A. M.

(HAROLD BENINGTON resumed the stand for further direct examination by Mr. Mayer):

I will state what has happened since I was last on the witness stand, with respect to my examination of the account between Charles G. Buck and the Larson Company.

In accordance with the agreement reached I presented myself at the offices of the Larson Company together with one of the employes from my office and we proceeded to examine such documents as were presented to us. We
7444 found that all of the cancelled checks covering payments to the Buck Company from November 23, 1911, to February 12, 1923, were on file and appeared to be in regular order except for about half a dozen items. In such cases the checks themselves could not be produced, but the stubs of the check books were in such instances shown to me. As regards the invoices, however, we found that a large number of them were missing. They were missing in 1912, 1914 and part of 1913 more particularly. When I came to the conclusion that, owing to the absence of so many of these invoices, I could reach no definite conclusion—as to whether or not Wintermint gum labels had been supplied by the Buck Company to Larson Company, I called upon Mr. Lane and told him the situation and he suggested that I call upon the master and get his instructions as to how to proceed further. This I did last Wednesday and after discussing the matter with the master he wrote a letter to the attorneys in the case. The next day I received a telephone message from Mr. Larson's office, as I understand it, requesting me to meet him
(4929) at the master's office at 3:30 which I did, and at that
7444 time Mr. Larson appeared to be rather indignant that I
7445 had reported matters to the master without first telling him that I was going to do so and arranging for him to be present. He stated that he had found other invoices and documents relating to the Buck account, and it was thereupon arranged that I should go back to his office and check up what he had. This I have since done. Mr. Larson, however, only produced for me some 1915 and 1916 additional invoices and as a net result of my examination I find that there are still more than half of the invoices which cannot be found. The missing invoices aggregate in dollars and cents $3,407.03 out of a total of $6,279.23. The principal ones missing are in 1912, 1913, 1914, 1915 and 1916.

Mr. Larson produced for my inspection receiving books from 1915 onward but states that those relating to prior years cannot be found. I looked through the receiving book for 1915 and found no receipts of Wintermint gum labels recorded as having been received in that year. I

did not look through the books for later years as I did not feel that this would have much bearing upon the situation.

7446 Mr. Larson produced to the master in my presence a check for three dollars dated January, 1914, and the stub of such check on which is written ten thousand "Wintermint labels." He stated that he had only just succeeded in locating this check and that this was the check in regard to which he had testified and represented the payment for the first batch of Wintermint labels ordered by him from Mr. Buck in December, 1913. The check is signed by Mr. Larson personally and not by the Larson Company, but he states that he was at a later date reimbursed for this expenditure by the Larson Company.

In going over such records as were presented for my (4930) scrutiny I found a journal which contained transac-
7446 tions with the Buck Company, but on attempting to check this detail with the Buck ledger account in the Larson Company books I found that the dates and amounts did not agree. It was later explained to me that this journal was not a journal of the Larson Company but belonged to a subsidiary sales organization. I merely mention this incident as indicating that business had evidently been transacted with the Buck Company by the Larson Company interests which is not recorded in the Larson Company books.

I asked Mr. Larson and his employes whether they
7447 could suggest any other channel of information through which I could ascertain with reasonable exactitude whether or not Wintermint gum labels had been supplied by the Buck Company to the Larson Company during the period in question. They stated that they knew of none. I then asked whether Mr. Larson would give me access to his sales records, production records and the inventories of merchandise which this company must have prepared from time to time, explaining that by the use of these I could arrive at a more or less definite conclusion. He, however, refused to give me access to these books.

I have to report that from the data submitted to me I could draw no definite conclusion as to the quantity of Wintermint gum labels supplied by the Buck Company to the Larson Company during the period 1911 to Febru-
7448 ary 12, 1923, this being the period covered by the exhibits put into the record by Mr. Larson recently and

numbered, I think, Larson Exhibits 185 to 188, and my instructions were to check up the transactions covered by these exhibits. Were I permitted to examine the sales records, production records and inventories, I believe, as I have previously explained, I could in toto determine the minimum number of Wintermint gum labels which Buck did supply. The number that I would arrive at in this
(4931) way would in all probability be somewhat less than
7448 the actual number supplied owing to the fact that undoubtedly there would be some wastage, but the figure would be the conservative one.

Larson Exhibits 185 to 188 purport merely to be a list of dates and amounts, some of them debits and some of them credits, in a purported account between L. P. Larson Jr. Company and C. G. Buck & Co. or Chas. G. Buck Co. or Charles G. Buck.

7449 It is possible to tell from these exhibits what purchases the Larson Company made from Buck or his company or the amount thereof. I know they are purchases because they are so marked. I have no way of knowing whether these exhibits are correct and truthful or not, or whether they represent the actual business dealings between the Larson Company and Buck, or whether they represent fully those business dealings unless other records be examined. Of course, unless I accept the statements in absolutely good faith, the only way in which to verify them
7450 would be to inspect the books and records of the Larson Company. I endeavored to verify the correctness of those four exhibits. That was what I was instructed to do.

7452 The documents which were submitted to me by the Larson Company were insufficient to enable me to determine whether all the debits and credits on those four exhibits, 185 to 188 inclusive, for identification, were correct, and also to determine whether they show all the business transactions between Buck or his company and
7453 the Larson Company, and also what each of the payments shown on those exhibits were made for.

I have testified that Mr. Larson informed me that a large number of invoices pertaining to Buck dealings with the Larson Company have been lost or mislaid. Assum-
(4932) ing that the information so given to me by Larson
7453 to be true, I will state what books, documents or records

are essential for my ascertaining the correctness and completeness of Larson Exhibits 185 to 188, inclusive, for identification. It would be necessary to submit to me the sales records, production records, shipping records and inventories of the Larson Company throughout the period covered by these exhibits. I am not prepared to say that an inspection of those records would definitely enable me even then to verify those exhibits. I, of course, cannot tell that until I see the records in question. As to whether the sales records, production records, shipping records and inventories if available, would contain information which would enable me to check up on the truth or falsity
7454 and the completeness or lack of completeness of those Exhibits 185 to 188 inclusive, I will say they would furnish information which would enable me to check up, but it would have to be supplemented by other information. That is to say, in determining the quantity of Wintermint gum labels supplied by Buck I would necessarily have to ascertain from some other source than the books of the Larson Company itself the quantity of Wintermint gum labels supplied to the Larson Company by the Kittredge Company.

I will point out to the master why it is necessary for me to examine the sales records, production records, shipping records and inventories, or why they would throw any light or enable me to determine the falsity, truthfulness, completeness or lack of completeness of those Exhibits 185 to 188, inclusive.

Taking the Wintermint gum labels by themselves as an example, were all of the invoices rendered by the Buck Company extant and available, an analysis of them would show how many Wintermint gum labels were supplied by Buck, but as these are not available and, as I understand
(4933) it, a large number of invoices for Wintermint gum
7454 labels supplied by the Kittredge Company are likewise missing from the files of the Larson Company, there remains only the method I am about to describe by which
7455 the number of such labels supplied by the Buck Company could be ascertained. The method I have in mind is to take the total sales of Wintermint gum as recorded in the books of the Larson Company, convert such sales into terms of labels, ascertain from the Kittredge Company itself how many of such labels it supplied to the Larson

Company and by deducting that number of labels from the total I should arrive at a figure which must have been supplied by Buck if the testimony given in the case is true to the effect that only Buck and Kittredge supplied labels during the period covered by these exhibits.

As I have previously stated this morning, the figure I would arrive at in that way would be a smaller figure than the number actually supplied on account of the wastage which would take place not only in the Buck labels but in the Kittredge labels, but it would give me a minimum figure.

7456 May 1, 1923, 2 o'clock P. M.

Cross-Examination by Mr. Aldrich.

It is not my supposition that all of the Larson or Larson Company transactions with Mr. Buck and orders for printing related to the Wintermint labels. I went far enough into such invoices as could be found for me to say that I know that Buck did other printing for the Larson
7457 Company as far back, I think, as 1911. There was a hiatus of about a couple of years between transactions between the Larson Company and the Buck Company, during which I understood Buck was in the service.
(4934) I stated last week that I could take the cancelled
7457 checks and find that the different items had been paid for, with certain exceptions where nothing could be produced except the stub of the check. I forget as to whether there were only a few checks missing, but anyhow I regard the check as fairly good evidence along those lines. The checks and stubs appear to have been made in due course of business. I have no reason to suppose that the payments did not take place at the time they pur-
7458 ported to take place. I saw no reason to form an opinion one way or the other, that they were not actual, current transactions between the Larson Company and the Buck Company relating to the business of the one or the other, that is to say, of course, as to what the payment was for I had not any evidence of. I mean by that that all of the vouchers could not be found or were not produced for me. I don't mean anything more than that.

As to whether I had full access to Buck's account on

the ledger, I will say, I had submitted to me ledger sheets which Mr. Larson stated had been withdrawn from his ledger. I had no reason to doubt that they were not what he represented them to be and they were continuous in dating, but I did not see the whole of his ledger.

7459 As to why I wanted to see any other part of the ledger than the Buck account, I will say I merely said I had not seen any other part of the ledger, having in mind the nature of the question that Mr. Mayer put to me this morning. Of course, it is always an open question as to just how deeply one is going into the question of authenticity of records. I mean if you submit to me a ledger sheet for ordinary purposes, I should be willing to assume that it was it represented to be, but if I were charged with the duty of going into matters where it was suggested that possible fraud was committed and substi-
(4935) tution or alteration of documents, I would not be con-
7459 tent to just accept a sheet of that sort. I should want to see the subsidiary records from which the postings to that sheet had been made and make some test checks so that I would be sure that it was what it pretended to be, that's all. The ledger sheet purports to refer to pages of journals. I do not think I had the journals. I asked
7460 for the journals. I asked Mr. Clutten and two other gentlemen. I think it was Mr. Vernon who told me that journals were not available, but I am not going to be very positive about that. It may be that those journals were subsequently produced to Mr. Russell, my employe, but anyhow the journals would cover very, very few of the transactions affecting the Buck account. By that statement I mean that most of the credits to the Buck account came from a purchase record which is not what I understand is referred to when you are speaking of the journal, and as regards the purchases we were endeavoring to verify those with the original invoices so we would not have occasion to refer to the purchase record. I cannot be postive as to whether I had the purchase record. I should have to bring Mr. Russell here to make sure on that.

7461 The ledger sheets show the dates of the invoices. As to whether it will be necessary to have the journal when I have the ledger sheet with the date on it, I will say it depends on the purpose that I had in mind. I should like to have both in a case where, as I suggest, a charge has

been made that the documents might have been tampered with. I would not exactly call it a charge, but the suggestion has been made, as I take it, by Mr. Mayer that the documents put in evidence by the Larson Company in connection with its transaction with the Buck Company may not represent the truth, or if the truth, not the whole truth, and that one of my duties is to satisfy myself on that point as far as possible.

(4936) Nothing whatever was found by me at the Larson
7462 Company that indicated that anything but the truth was represented by the Larson books as far as I have investigated. I do not understand that it was my purpose and the reason for which I was sent there to try and find a justification for the suspicion or charge, whatever you choose to call it, entertained by Mr. Mayer. I understood that I was to go there on the instructions of the master and find out whether the supporting data was on file which would enable me to tell whether the ledger sheets regarding the transactions with the Buck Company disclosed all the business had with it and what was the nature and extent of that business. It was not with the idea of looking for anything one way or the other, it was merely to answer that inquiry and report back to the master what I found. There was nothing about the ledger sheets that seemed suspicious or irregular to me.

7463 My understanding is that Mr. Larson offered to give me everything directly pertaining to the Buck account that he could find, but that he did claim that a number of things were simply not to be found. They aggregated several thousand dollars in all. They varied in amount, of course, from a few dollars upwards, but, as I say, they came to I think, as I said, about three thousand dollars that could not be produced. It covered a period of somewhere around twelve years.

As an accountant I would not consider it necessary to keep the invoices in the due course of business ten or eight years back where I had the cancelled check showing the payment and the ledger reference showing where it was recorded on the purchase book or journal. It is quite
7464 unusual as a matter of fact to keep invoices that are over five or six years old, but of course there would be other records which should show the information.

(4937) I told Mr. Mayer and the master this morning that I

7464 thought it necessary for my purposes to have the sales books of the Larson Company, the inventories of the Larson Company, and the production, shipping and receiving records. I said from those books I could, by a process of exclusion and making due allowance for wastage, ascertain the total number of Wintermint labels that had been purchased in these years from 1913 by the Larson Company and see what the extent of their transactions were.

(Mr. Aldrich then put the following question:

"I would like to have you explain a little more fully why such a general examination of the Larson books is necessary to get at the facts with reference to the Buck account and a few missing invoices when you have your-
7465 self stated that the ledger has reference to pages of the purchase record or the journal and the cancelled checks can be read onto the items of the account."

The witness continued:)

I have already explained that as regards the payment of the money the evidence is reasonably complete, assuming that these ledger sheets do contain all the transactions. There is no question that the payments recorded are substantiated by satisfactory evidence for the payments, but when it comes to the credits, or the goods for which the payments were made, the records submitted to me do not disclose what the nature of those goods was. I am not implying, and I don't think anybody implies, that there is any moral turpitude involved in not having kept supporting data such as invoices or receipts or anything of that sort, but if after a lapse of ten or twelve years one is asked to arrive at a certain result and that supporting subsidiary data is not there which would be the natural medium of information, the only other way to build up the necessary chain of evidence is to go at it
(4938) in a more indirect way and that is the way I suggested
7465 going at it. Now, your reference to the journals leads me to say this, that, as I recall it, and of course I would like, as I say, Mr. Russell to testify on this too, where the journals do exist they consist of a number of what we call
7466 blind entries, that is to say, they simply credit the Buck Company and charge printing so much, with a certain date. It might have a reference to the invoice, but you would have to turn to the invoice to see what the nature of that printing was, whether it was one thing or another.

In my opinion, as an accountant, I do not know that it is of any particular importance whether the printing was for Wintermint labels or whether it was for Peptomint labels, or box labels, or any other kind of printing. This morning I gave Wintermint as an example. I know that we are all interested in this case, at least the lawyers are, in the Wintermint situation, but, of course, if I am going to verify the whole account to find that it does represent all the transactions had with Buck, it would involve going into the other printing matter done by him and a computation along similar lines to those described by me in relation to Wintermint.

I do not think it is quite true to say that what I have described this morning and again this afternoon in the examination of the books referred to would involve a general examination of the affairs of the Larson Company. I will state the reason for that. I would not be going
7467 into the question of the—for instance, the salaries drawn by the officers or the expenses incurred in traveling. There would be a thousand and one things I would not be in the least interested in, but it would involve going into the sales records and these other records that I have mentioned simply for the purpose of, and to the extent that it
(4939) would be necessary, to arrive at the information that
7467 I indicated.

As to why I regard it as important to know the total amount of Wintermint sold or the total of Wintermint labels printed, I will say, I regard that perhaps as a shade more important than knowing whether the transactions had with Buck in respect to other printing matters were accurate, for this reason, that I understand Buck has testified that as of a certain date only ten thousand labels had been purchased from him, and I understand that one of the things Mr. Mayer is rather anxious to show is that that may not be accurate. I am probably misquoting the record when I say Mr. Buck mentioned the number. I have not read the record with very close attention; probably it was Mr. Larson testified as to the number and Mr. Buck, as Mr. Aldrich says, may have just made some gen-
7468 eral statement. The record will speak for itself, of course.

I have seen the check that Mr. Larson produced to the master the other day, in the absence of counsel for the

Wrigley Company and Mr. Aldrich, upon which he relies for the printing of ten thousand Wintermint labels.

(Mr. Aldrich then asked the witness whether he made such an inspection of the check as to enable him to say
7469 whether he believed it to be authentic or not. Mr. Mayer objected. The objection was sustained. Mr. Mayer then stated that he would like to see the check and the stub and whatever Mr. Aldrich had pertaining to it; also the ledger
7470 entry and the journal entry of the item. Mr. Aldrich replied that there was no ledger entry or journal entry, as he understood it, and that the check was paid by Mr.
7471 Larson personally. Mr. Aldrich thereupon tendered the check to counsel for the Wrigley Company, and at the same time produced the stub of the check and handed it
(4940) to counsel for the Wrigley Company who examined it.
7471 The witness continued:)

The check in question has every outward evidence of
7472 being a genuine document drawn as of its date, and so forth, and as having been presented for payment in the ordinary course of business. I have inspected the stub of that check. The stub has every indication of its being authentic so far as I can see. It has the same number as the check.

(Mr. Aldrich then offered in evidence the said check and stub, counsel for the Wrigley Company stating that they did not object to the introduction of the same on the ground that they were offered at the wrong time. Mr. Aldrich then asked that the check and stub be marked, and also asked for leave to withdraw the check at a later time and have a photograph put in place of it. The
7472 master said that might be done. The said check, dated
7474 January 7, 1914, and the stub thereof, so offered, were received in evidence and marked respectively Larson Exhibit 189 and Larson Exhibit 190.

7473 Said Larson Exhibit 189 is a check, No. 2470, dated Chicago, Jan. 7, 1914, drawn on Continental and Commercial National Bank of Chicago for $3.00 to the order of C. G. Buck and signed L. P. Larson Jr., bearing clearing house endorsement, showing payment Jan. 7, 1914.

Said Larson Exhibit 190 is a check stub numbered 2470, dated Jan. 7, 1914, naming C. G. Buck as payee and stating it is "For 10—M—Wintermint labels" and that the balance was $28.95, from which the $3.00 was deducted, leaving a balance of $25.95.

(4941) I don't think the suggestion came from Mr. Mayer
7476 or Mr. Lane that they wanted me to examine the sales books and production book, inventories and so forth. I think I suggested to them that if we wished to obtain this information, this would be one way of getting at it if the invoices and other supporting data could not be produced. I investigated the payment made to Mr. Buck of $200. referred to by Mr. Mayer today just to this extent, that I recollect that the item is of a rather unusual character, that is to say, there is an invoice supporting it, but the services rendered were for inserting some advertising matter in some town in Wisconsin. It struck me as unusual, as being outside the scope of the usual type of business had with Mr. Buck. I cannot tell for what length of time that advertisement was. How I happened to know about it, I happened to ask Mr. Russell in looking over his list and seeing this round figure about the date, which was around the time that Buck was testifying, I said
7477 "Did you see an invoice for this particular item?" and he said "Yes," and I asked him what the character of it was and he told me. I think perhaps you had better question Mr. Russell when he comes over here because he can give you more direct evidence on that.

When I say around the time Mr. Buck was testifying in this case, I mean that I had in mind in questioning Mr. Russell that period, and I was fixing it roughly in my mind as undoubtedly having happened shortly after he came back from the army, and, as we have said a while ago, there is a hiatus in the transactions between Buck and the Larson Company for about a couple of years, and, as I recollect, this payment followed very shortly afterwards. I cannot tell the time Buck testified but I think it was about 1918 or 1919. Well, it may be April 1922. I am not sure about that.

(4942) I cannot say that I have any suspicions about the
7477 transaction. Mr. Mayer has indicated some suspicions,
7478 I did not say whether I had or had not. I merely said it was an unusual transaction. That was in June, 1920. That is, the two hundred dollars was expended at that time. As to whether it was my suggestion or Mr. Mayer's that Buck's testimony and that expenditure were related, I will say, it is hard to answer in this way I mean it was not directly suggested to me by Mr.

Mayer, but arising out of the conversation and testimony that I have heard in the court room, the idea was injected into my mind and prompted the inquiry which I made in regard to the item.

My inquiries did not go far enough to know what was the extent of the advertising, but as I say, Mr. Russell may have more information on that. In a general way, it is usual with accountants to assume where there is a running account between two firms for a term of years,
7479 credits for merchandise and charges for payments, that the transactions are in good faith and represent bona fide transactions, but not in a case where it has been openly suggested that the transactions might be tainted with fraud. What I mean is that I am very seldom called in to inspect things before there is some special purpose. Somebody is dissatisfied or something or charged as being wrong, and to answer your question I would have to say I think you should put it a little bit more clearly. If you give me a ten dollar bill, it is usual to assume it is all right, but if I am called as an expert in connection with it, I should probably, of course, begin to examine it with a microscope and so on. Of course, in the ordinary business if I am submitted a ledger sheet, I assume, as you say, it is an authentic document prepared in the ordinary course of business,
(4943) but if I am requested for any purpose to examine it
7479 and see if it is correct, then all these other questions some up for consideration, as to whether it is authentic, as to whether it is accurate, as to whether it is supported by proper evidence, and so on.

7480 I don't wish the master to understand at this time that I believe there is anything wrong in any way with the documents which have been submitted for my scrutiny or with those that have not. I am merely telling him what I have seen and what I have not seen and what I think can be seen as through a glass darkly if we go into the other records as has been suggested.

My testimony means that I don't know whether there are other Buck transactions not embraced in the account nor on the ledger. I would say that Mr. Aldrich is trying to put words into my mouth implying doubts which I have not expressed. I don't think or say anything of the sort. I merely say that I don't know. Until

I have inspected these records I cannot say. I did not find any transactions with Mr. Buck except what were on the ledger aside from this Wintermint payment by Larson in December or January, 1914. I naturally would not find it because I was merely examining in a routine way evidence in support of what was on the
7481 ledger, so I naturally evidently would not discover anything else unless it were brought to my notice by Mr. Larson himself.

The substance of it is that I want to examine the books or have advised Messrs. Mayer and Lane it is necessary to examine the books to see whether or not their suspicions that there may be something else is well or ill founded.

Redirect Examination by Mr. Mayer.

Since I have been here as a witness recently on several occasions in connection with the examination of the
(4944) Buck account there have beeen interruptions, and
7481 arguments during those interruptions, by the counsel for both sides with regard to the genuineness or possible falsity of Exhibits 185 to 188 for identification. In that way I have heard that counsel for the Wrigley Company insisted upon the right to know definitely whether or not the exhibits named show all the transactions between Buck and Larson and whether they are correctly shown
7482 thereon, and what the items are for. From the documents which Larson exhibited to me I am not in a position to state to the master what each one of the payments shown on Exhibits 185 to 188 were for. So far as I have been able to discover some of those payments may have been for cash loaned or for purposes other than printing. This check to Buck for three dollars by L. P. Larson Jr., marked Larson Exhibit 189, does not appear in the ledger account with the Buck Company, but Larson assured me that that sum possibly together with others was subsequently refunded to him by the Larson Company. I have not attempted to follow those transactions through to see whether that was so. As I say, the item is not included in the Buck Company ledger account, nor, may I add, is it included in Larson Exhibits 185 to 188.

Larson Exhibit 190 appears in what apparently was
7483 the check book, and apparently there are other stubs in that book in which Larson Exhibit 190 appears. With respect to the other stubs in the book, I only examined the one immediately preceding and immediately following. Some of that stub, January 7, 1914, is in ink writing and some of it is in lead pencil.

I made no special inquiry for the purpose of finding out whether the language or the figures and words: "10M Wintermint labels" now appearing on that stub, Larson Exhibit 190, was written there at or about the time the stub was made or the check was drwn, but the de-
(4945) tail is written in the same colored ink and appears
7483 to be of the same age and general character as the rest of the ink writing on that stub. I did not examine the
7484 remaining stubs in that book for the purpose of seeing whether it was customary for the person that used that check stub to write down on the stubs the items for which the several checks were drawn.

(Mr. Aldrich then said he had no objection to Mr. Mayer examining the balance of the stubs in the particular stub book in which Larson Exhibit 190 appeared, and thereupon handed the check book, with said stubs, to Mr. Mayer and Mr. Lane for examination).

Recross Examination by Mr. Aldrich.

Referring to Mr. Mayer's question whether it was not entirely possible that some of these payments to Mr. Buck shown on the ledger were payments of cash or advancements in the way of cash and not for merchandise, and my answer that it was entirely possible, I will say I believe there would be a reference on the ledger to a purchase sheet or a journal in that event, and an invoice number and an invoice date would be there under those circumstances, and also if it was for a loan.

L. P. LARSON, JR. resumed the stand for further direct examination by Mr. Mayer.

I have heard all the testimony this afternoon. I have before me Larson Exhibit 190, being a stub indicating
7486 a three dollar payment to Buck January 7, 1914. That exhibit is in a stub book.

(Mr. Mayer then asked the witness to count and tell the master exactly how many stubs were in the stub book. Mr. Aldrich objected. Mr. Mayer said that he proposed to show that of the large number of stubs
(4946) in the book, there were only one or two that pur-
7486 ported to show the purpose for which the checks were issued, and that he was attacking the genuinenesss of the document. The master sustained the objection. Mr. Mayer then offered the entire stub book in evidence. Mr. Aldrich objected and the objection was sustained. Said stub book so offered but not received in evidence contained stubs Nos. 2450 to 2474 and was marked Wrigley Exhibit 103, offered, not admitted.")

7487 The L. P. Larson Jr. Company did not manufacture a Wintermint mint before it commenced to manufacture a gum under the name of Wintermint. We did not manufacture or buy any Wintermint mints until we were at 501 North LaSalle Street and we moved there May 1, 1914. I am positive that we manufactured no Winter-
7488 mint mints prior to May 1, 1914. Kittredge & Company printed our Wintermint labels for us. Mr. Mayer is asking me questions now that refer to nine or ten years ago. Now, I know I am accurate as to the matter of Wintermint gum and Wintermint mints, that's a fact, that we first manufactured Wintermint gum in December, 1913, and that we did not have anything to do with any mints until we moved to 501 North LaSalle Street May 1st, 1914. I am positive of that. But to ask me who printed our Wintermint labels and questions of that nature that's eight or nine years ago, I want to be absolutely right in my answers and I want to answer them as intelligently and as quickly as possible.

(4947) "Q. Did Charles G. Buck or his company print
7488 any Wintermint mint labels for you?

A. Mr. Mayer, you asked me about Wintermint mints?

The Master: Mr. Larson, can't you just answer the question? Listen to the question.

A. He did. He printed Wintermint box labels for us.

He also, in December, 1913, printed the labels we first used in putting Wintermint gum out. Buck may have printed Wintermint labels for the gum and he also could have printed Wintermint labels pertaining to our mint
7489 boxes. My recollection is that he printed labels for the box gum and for the mints.

"Q. Mr. Larson, can you tell the master now the different dates on which you gave Buck any orders for anything other than the December, 1913, order that you have told us about.

A. I do not understand the question.

Q. What part of it don't you understand?

The Master: Read it again.

(The question was read)

The Witness: Read that again. I cannot quite understand it.

(The question was reread)

If you will please make your question a little clearer. I don't understand it.

Mr. Mayer: Q. What part of it or what words don't you understand.

A. What other orders I have given Mr. Buck. Mr. Buck has had a good many orders.

Q. Now, with the exception of the one that you gave him in December, 1913, can you give us the dates of all the other orders that you gave Buck?"

(4948) (The witness continued:)

7490 Besides the order I gave Buck in December, 1913, I can give the dates of all the other orders that we gave Buck. The dates are in our exhibits. I cannot give the dates from memory. As to whether I have any way by which I could ascertain those dates, I would say all my business practically was done with Buck through the
7491 company. I have not, personally, any way by which I could ascertain those dates. We have all the records of the L. P. Larson Jr. Company showing what business we done with C. G. Buck & Company or C. G. Buck. They show all the business. I cannot tell from memory all the amounts of money that I or my company paid to

Buck or his concern during my business dealings with him other than this three dollar item of December, 1913. I can get that information from the books and records of the L. P. Larson Jr. Company. Mr. Mayer now has
7492 all the records of payments we have made to Mr. Buck. When I say Mr. Mayer now has all the records, I am referring to the documents that were turned over to Mr. Benington. We have books and records which will show all the business transactions between myself and L. P. Larson Jr. Company on the one hand and Charles G. Buck or his company on the other hand, which will also show
(4949) the disposition of all materials purchased from Buck.
7493 Larson Exhibit 186 I have testified was taken from the L. P. Larson Jr. Company's ledger and shows the account of L. P. Larson Jr. Company with Charles G. Buck Company from January 1, 1920 to February 10, 1923. The first item on that account is not a charge of two hundred dollars under date of June 1, 1920. It is a credit of two hundred dollars. In plain English that means it is a credit to Buck on our books for two hundred dollars. It means that we gave him an order for
7494 two hundred dollars on June 1, 1920. That order was an advertisement. Buck was not in the advertising business. I have the invoice for that with me here.
7494- (Mr. Mayer asked him to produce it. Mr. Aldrich ob-
7497 jected on the ground of immateriality and irrelevancy. The objection was overruled. The witness thereupon produced the document.)
7498 The document which I have just produced is the original invoice made out and received by me on or about the date it purports to be dated, June 1, 1920. The steneil impression "Paid June 8, 1920" must have been put on that document on that date.

The Bridgman Enterprise is a paper up there in Bridgman, Michigan, that Mr. Buck had an option to purchase a half interest in, and he told me that if I would place an ad in this paper for six months that he would give me a special rate for that time, the ad to appear weekly, and furthermore that he would get distribution of our chewing gum and mints throughout that territory. I thereupon gave Mr. Buck an order to place our advertisement in this newspaper and this newspaper, the Bridgman Enterprise, fulfilled their contract and the

price we paid for it was exceptionally reasonable, together with the distribution we got of our gum and the mints in that territory.

The ink writing which now appears on that invoice (4950) was there at the time the payment stamp "June 3rd, 7499 1920" was put on it.

(Mr. Mayer then offered in evidence said invoice, on billhead of Charles G. Buck Company, showing payment of $200 for ad in Bridgman Enterprise. The exhbit so offered was received in evidence and marked Wrigley Exhibit 104.)

The item appears upon Larson Exhibit 186 for identification under date of June 2nd, 1920, "By cash $200.00". 7500 The "1920" does not appear at all on that exhibit, but I find a new year "1921" written lower than June 2nd, and so I assume that the few lines above the "1921" refer to "1920", so that according to Exhibit 186 we paid Buck $200.00 for that printing on June 2nd, 1920. I cannot explain the fact that the invoice that I have produced here shows it was paid on June 3rd, 1920, but that is Larson Company's stamp. If the books, such as sales records, production records, shipping records and inventories, which Mr. Benington thought essential to examine, were produced here before the master, they would not contain any information which in my opinion would tend to incriminate me, or anybody else.

(4951) Mr. Mayer then asked the witness whether he was 7501 willing to produce before the Master the documents just mentioned so that an examination thereof might be had under the control and in the presence of the Master of only such portions thereof as might enable the Master to ascertain the business dealings between the L. P. Parson Jr. Company and Buck or his concern, the dates, extent and nature thereof. Mr. Aldrich stated that Mr. Larson would not answer the question beyond saying that he will be guided by the advice of his counsel. The witness said that he wanted to add that he offered the Master full access to all of Larson Company's relations with Buck; that he had thrown the whole office open to the Wrigley auditors for anything they have asked for pertaining to any relationship with Buck and that the auditors had it. Mr. Aldrich then said that he had instructed Mr. Larson to act, as Mr. Larson said he had

acted, but that he had also instructed Larson that at least until the Master rules it is pertinent and relevant he should not give the accountants of the Wrigley Company any access to his sales or production records, his inventories or the books that disclose his general business, and that, what Mr. Aldrich just said, might be considered the witness' answer to the request of Mr. Mayer. Mr. Mayer then asked the Master to rule upon the propriety of his request and also asked the Master to direct the witness to produce the documents in question before the master or to issue a subpoena duces tecum for the documents in question, that is those which Mr. Benington said were essential to the examination. The Master denied the request of Mr. Mayer, whereupon Mr. Mayer stated that in making the request the Wrigley Company
(4952) offered to pay all expenses in connection with the
7502 matter. Mr. Mayer also stated that the Wrigley Company offered to let the Master either make the examination himself, or direct it to be made by any Auditor to be selected by the Master without conference with counsel, for the purpose of ascertaining the history of Buck's dealings with the Larson Company, all at the expense of the Wrigley Company. Mr. Aldrich stated that he was objecting to any examination of the Larson Company books beyond the Buck account and that everything pertaining to that account, as already shown by the
7503 record, that the Larson Company had, the Larson Company would furnish at any time. The master denied said request of Mr. Mayer. Mr. Mayer said that the request he had been making with regard to the books of the Larson Company was for the sole purpose of proving the actual dealings and business relations between Charles G. Buck and the L. P. Larson Jr. Company for the purpose of discrediting Buck and showing what his actual business relations were, and that the books would show a bias on Buck's part in favor of the Larson Company and that they would also show that his answers on cross examination as to the extent and nature of his business dealings, were not correct. The Master said that he had so understood Mr. Mayer's request and its purpose, but that he had ruled it out because he thought Mr. Mayer was not entitled to it and that Mr. Mayer had all that
7504 was necessary for his purpose. Mr. Mayer then asked

Mr. Larson whether it was not a fact that he controlled and owner the Zulu Manufacturing Company and the Guaranty Sales Corporation. Mr. Aldrich objected on
(5953) account of immateriality and irrelevancy. The objection was sustained. Mr. Mayer said that he proposed to show by the witness that, if allowed to answer, his answer would be in the affirmative. Mr. Mayer also stated that he desired to interrogate the witness with regard to the business dealings with the Guaranty Sales Corporation and the Zulu Manufacturing Company with Charles G. Buck solely for the purpose of discrediting Buck, and for the purpose of showing his interest in the matter and his relations with the L. P. Larson Jr. Company and L. P. Larson in order that his bias may appear of record. Mr. Aldrich objected. The objection was sus-
7505 tained. Mr. Mayer then asked Mr. Larson whether it was not a fact that Charles G. Buck or his company had business dealings with L. P. Larson Jr. Company or its subsidiaries not shown on Larson Exhibits 185 to 188 for identification. Mr. Aldrich objected on the grounds of immateriality and irrelevancy. The objection was sustained. Mr. Mayer then asked the witness whether the L. P. Larson Jr. Company did not have selling agencies that were engaged in business during the accounting period or some part of it. Mr. Aldrich objected on account of immateriality and irrelevancy. The objection
7506 was overruled. The witness continued. I believe we had a selling arrangement with a company in the fall of 1914, but that was the last arrangement we ever made that I can remember of of any corporation or company or man to sell our merchandise. I did not have any
(4954) business with Buck in connection with that company
7506 or in any way related to it. The Guaranty Sales Cor-
7507 poration, as I remember, had no relationship with us during the accounting period. I do not know whether the Guaranty Sales Corporation gave Buck any printing orders. In 1914 and 1913 Mr. H. S. Vandervoort controlled the Guaranty Sales Corporation. I did not at any time have control of that company. As to whether I was
7508 the whole thing in the Guaranty Sales Corporation at any time, I will say I don't just remember because I saved it from going through bankruptcy on account of guaranteeing Mr. Vandervoort's account and helping

him to finance the corporation. I was not one of the organizers of that company nor its President or General
7509 Manager; Mr. H. S. Vandervoort was. As to whether I was one of the organizers of that corporation, I believe they used my name. I did not have anything to do with the conduct of the business of that company at any time. As to whether I was one of the principal owners of it, I had some stock in it, but don't know how much I had in it. As to whether it had an office with the office of L. P. Larson Jr. Company, I will say we gave them space in the same building we were in. I don't know whether that Company gave Buck any orders for print-
7510 ing; if it did it was before January 1, 1913. Mr. Buck did business with the Zulu Manufacturing Company. I
(4955) can tell the exact amount without reference to the books or records. I can give the dates of each order given by the Zulu Manufacturing Company to Buck for printing, showing the amounts of the orders and what the nature of the printing was. It has already been produced in Larson Exhibit 187, Larson Exhibit 188, Larson Exhibit 186 and Larson Exhibit 185 for identification. Those exhibits cover the business of the L. P. Larson Jr. Com-
7511 pany and the Zulu Manufacturing Company as well. L. P. Larson Jr. personally owned and controlled the Zulu Manufacturing Company during the entire period of time shown by those Exhibits 185 to 188 for identifica-
7512 tion, both inclusive. I have known George I. Haight, an attorney at law, practicing in this city, since 1907 or 1908. He has been my attorney continuously since then and still is. I have only business relations with him. He is the same gentleman who was an attorney of record in the case in which I am now testifying. (Mr. Mayer then asked the witness what interest his attorney, Mr. Aldrich, had in the case on hearing).
7513 Mr. Aldrich objected. Objection was sustained.)

Cross-Examination by Mr. Aldrich.

I employed Mr. Haight when the Wrigley Company commenced the original Spearmint-Peptomint litigation
7514 in October, 1911. Mr. Haight had charge of that litigation up to the time that Mr. Reed and Mr. Aldrich were employed. My books show all the transaction I ever had

with Charles Buck excluding of course the $3. item which I referred to in my testimony today.

(Mr. Aldrich then asked the witness if he had ever paid or promised Mr. Buck anything for his testimony in
(4956) the case on hearing. Mr. Mayer objected. The ob-
7515 jection was sustained. Mr. Aldrich then asked the witness by whom and when was this three dollar check discovered. Mr. Mayer objected. The objection was overruled.)

This $3 check was discovered by Mr. Vernon, an employe of ours.

(Mr. Mayer objected on the ground that the evidence was secondary and moved that it be stricken out. The Master overruled the objection and told the witness to state what he knew about it).

On April 20, 1923, after adjournment of this court, I went over to my office and there I found Mr. Clutton and Mr. Vernon in overalls, having dug up all our records down in the basement to find Buck's checks.

(Mr. Mayer objected, whereupon the Master asked the witness what he learned. Mr. Mayer objected as not competent evidence. The objection was overruled).

When I came into the office Mr. Vernon had this three dollar check which represents Larson Exhibit 189 laying on the table. He said "Mr. Larson' this is an item I
7516 found of three dollars that represents a transaction back on January 7, 1914." He gave me the check. He produced it after going through the records down in the basement. He found this check among a lot of other papers and transactions we had in 1914.

7517 May 2, 1923 at 10:30 o'clock A. M.

MR. CHARLES H. ALDRICH resumed the stand for further cross-examination by Mr. Mayer:

It is correct to say I testified the other day, when interrogated in regard to my interest in this case, that I had given a notice of my interest to the Wrigley Com-
7518 pany. As to whether that notice that I gave the Wrig-
(4957) ley Company was the one to which my attention has been drawn and which was offered in evidence by the Wrigley Company, I will say I do not think I recall it.

(Mr. Mayer then stated that he was handing the witness a copy of what had been read into the record and was asking the witness whether the said copy was the notice to which the witness referred).

Mr. Mayer also stated that he thought the copy was offered on March 9, 1923, but the record would show whether that date was correct. He then asked the witness whether he had examined the copy thus submitted to him and the witness answered "I believe it to be a copy". Mr. Mayer thereupon offered the document in evidence. Mr. Aldrich objected on the ground of imma-
7519 teriality and irrelevancy. The objection was sustained.

(The said notice of attorney's lien, addresesd to Wm. Wrigley Jr. Company and signed Charles H. Aldrich, so offered but not received in evidence, was marked Wrigley Exhibit 105, offered, not admitted).

(4958) Mr. Mayer said: Mr. Aldrich, we wish if there are
7519 any documents or papers, records or information which you have asked us to produce or procure at any time during the trial of this cause which you think have not been produced or procured and which you desire us to produce or procure, we will be glad to have you so inform us, because our purpose is to furnish you with anything that you may desire pertaining to this accounting. We are under the impression that we have done so, but we want
7520 the record to show that if these is anything in your mind that has not been produced or submitted, or if the master has in mind any documents or information which you desire us to produce or prepare, or which you think have any bearing upon this accounting, we stand ready to comply with any request either from Mr. Aldrich or from the master, and, of course, we are making that proposition on behalf of the Wrigley Company.

The Master: I do not think of anything, Mr. Mayer.

Mr. Aldrich: I assume, if the court please, that if there were anything or I should think of anything when I come to inspect the record more carefully, I could ask for it and that I would obtain it.

Mr. Mayer: Certainly.

Mr. Aldrich: I don't think this kind of a declaration on the record is necessary or proper and I am therefore objecting thereto.

Mr. Mayer: We concur in the correctness of Mr. Aldrich's assumption that if when he examines this record,

and before it is closed, he finds he wants anything more that is germane to the accounting, he can have it. We think our statement should be of record. This is a long record.

Mr. Aldrich: Let it remain so and let us go on.

(4959) Mr. Aldrich stated he wanted to offer in evidence a
7522 letter of Parkinson & Lane of October 8, 1918 and the two decrees thereto attached which were submitted by them. Mr. Lane objected on account of incompetency and irrelevancy and on the ground that the same had no bearing upon the issues in the case. A discussion took place and the Master did not rule upon the offer at the time.

7526 May 2, 1923, 2 o'clock P. M.

L. C. PALLIN resumed the stand for cross-examination by Mr. Aldrich:

7527 I testified in this case referring to the second visit I made with Mr. Buck to the house on the north side where
7527 he was looking for his records that he reported to me when he came down from upstairs, after leaving me in the parlor and being absent about a half hour, that the door to the room where the books were was locked, or words to that effect. It is not a fact that Mr. Buck brought down two books and that he and I looked those two books over sitting in the parlor and examined them.

(4960) WILLIAM HENRY STANLEY, resumed the stand
7528 for further cross-examination by Mr. Aldrich:

When I referred to the decreasing amount of sales of the Wrigley Company I meant the volume of sales of our leading gums is getting less. Today we are putting coupons on the same brands of gum that we were issuing during the accounting period, but in addition to that we are putting coupons on other brands.

7529 We are now putting coupons on P. K.'s and Lic-o-rice. I think it was about 1919 or 1920 that we put the licorice on the market. We are also putting coupons in Wrigley's Peppermint brand that we put on the market about 1920. We have ben issuing coupons with Licorice since about

1919 or 1920. It may have been a little earlier, but not during the accounting period.

We are still putting out Wrigley's Licorice with coupons.

I think we reached our peak of sales in 1919 or 1920. Since then we have had a decrease in volume of sales each year.

(Mr. Aldrich then asked the witness how January of 1923 compared with January, 1922. Mr. Mayer objected. The objection was overruled.)

7531 January, 1923, was better than January, 1922.

It would be a fact that the number of coupons issued each year, except in 1920, has increased. I have not the figures before me. It would be on account of the decrease of non-advertised brands with which we do not pack coupons.

In other words, our advertised brands with coupons have probably increased, premising the assertion on your (4961) statement of fact, and the non-advertised brands without the coupon have fallen off.

As to my former testimony that the figures for the actual cost of the U. P. S. Coupons include the amount paid for printing coupons, I will say I have not since ascertained that that was an error. I have not made any investigation since I gave my former testimony of any sort or nature whatsoever with regard to coupons.

7532 As to what the statement referred to was based upon, I will say just on my memory and from past experience that we did include usually in the cost of redemption of coupons the cost of printing. I know the opposite was the case too.

As to whether I intended by that statement to say that the cost of printing is charged into the coupon reserve account, I will say it has occurred that way during the accounting period.

As to whether I know what year, I will say stretching over three or four years of the period. The statement filed by Mr. Benington discloses the amounts and facts, the amounts that we paid for printing which have been taken out of the redemption or reserve fund. I don't think we had any fixed method with regard to charging the printing for U. P. S. Coupons. It occasionally got into the cost of redemptions and sometimes was treated as a separate item.

7533 During the accounting period the charge for printing U. P. S. Coupons in the statement I prepared for the master, and filed with the master, the charge for U. P. S. Coupons was sometimes included in the redemption of coupons and occasionally treated as an overhead item.
(4962) It was in both. Since then the items have been rectified by both Touche-Niven, Marwick-Mitchel and by the recent statement filed by us, the so-called Benington statement.
7534 In answer to a question of Mr. Mayer, I stated that the book reserve for contingent liability for the U. P. S. Coupons on March 1st, 1923, was $6,918,374.63. In making that statement I included by an oversight the $19,-552.28 credit allowed by the U. P. S. Corporation on coupons other than No. 1 denomination redeemed during 1922 in excess of the 135,000,000 units per agreement to December 5, 1921. And the reserve should be corrected
7535-6 to that extent. Although from the beginning of the issue of coupons there has been annually an increase in the number of coupons issued beyond the issue of the year prior with the exception of the year 1920, when there was
7537 a slight falling off, I still say there has been a decrease in the gum sales by the Wrigley Company during the period.
(4963) The decrease in sales between the peak in 1919 or
7538 1920 and last year's sales was two or three million dollars. Nevertheless there was an increase in the coupons issued in 1922 over 1921 of approximately 24,270,000. In those figures one vital point is overlooked by counsel for the Larson Company.

The Larson counsel has just taken the total coupons reduced to 1s. In Wrigley Exhibit 102 the vital point which shows practically what the sales are is shown under
7539 the column headed "No. 1". You will find there under 1920 an issue of 918,490,301 No. 1 coupons which practically represent 918,000,000 packages of gum. When you come down to 1921 you find 837,463,000 odd and in 1922 801,298,000 odd. They reflect sales of packages of gum more than the figures under the column headed "Total" in terms of No. 1s.

A No. 5 Coupon is inserted in each box of gum with which we pack coupons.

In this same exhibit, in the year 1919, column "No. 5" shows 40,979,147 issued. The next year, 1920, 42,748,653

issued, and in 1921 there were 38,384,291 issued; and in 1922 there are 48,222,711 issued. That occurred because
7540 we put two No. 5s in the boxes for a time during 1922. That was in boxes of all kinds of gum with which we packed coupons. That practice continued for about six months. I don't know what period of the year offhand, but I think it was from the beginning of the year until about the end of the year. That accounts, too, for the nineteen thousand dollar credit that we got from the U. P. S. which I did not take into account in figuring the reserve. I might add that because it will simplify an explanation of that.

There was no announcement to the public of the pack-
(4964) ing of two coupons in each box. There was an announcement to the dealers.

I have been advised as to an error contained in Exhibit 102 as to 214,496 coupons redeemed at double value
7541 and through error included in my statement. I wish to correct Exhibit 102 to that extent. I told Mr. Vincent the details of that matter.

As to whether this has the effect of reducing the percentage of redemptions for January and February, 1923, from .36919 to .36794, I will say I did not figure out the percentage of redemption just for those two months, but I know it reduces the cumulative at the third or fourth places.

Exhibit 102 shows the percentage of redemption of No. 5 Coupons for 1916 as .1528 whereas the percentage should be .5128. That was just an error through transposition of the figures.

My statement shows percentage of redemption of No. 25 Coupons for 1919 at 800.16. As to whether it should bme 815.933, I will say that is a question of mathematics. I could figure it out. It may be wrong, but it does not
7542 affect the totals or the cumulative. It does not affect the cumulative or the totals down as far as the end of 1922, and for the first two months of 1923 it alters the cumulative percentage from .2680 to .26797.

We had no purpose whatever in showing on Exhibit 102 that the percentage of coupon redemptions to issues in January and February, 1923. Mr. Mayer asked me to prepare the statement up to date as far as we could show on our books, and we did so. We did not have the figures

up to the first of April this year, and the reason I could not put in the figures, is that we did not know what they were for March. The purpose was absolutely not to lead
(4965) the master to believe that there was a large increase in rate of redemptions.

As to whether I know that our own experience has
7543 shown that the percentage of redemptions is very much larger in January and February, and that those two months are not at all indicative of the year, I will say I know there is a little difference in January on account of the year end redemptions, but I can assure you that there never was an iota of thought put on the fact that those two months might have been different to any others. The man who prepared that did not know what it was wanted for. Mr. Lane then said that the Wrigley Company will be glad to bring the figures up to any time that the Larson Company would want them brought up and that the Wrigley Company had brought them up as far as they could at that time.

I would not say that the January and February redemptions are very much larger than they are at any other period in the year. January may be but I doubt whether February has much influence on the average redemptions. December and January are sometimes a little heavier.

7544 I have not checked the figures so as to be able to confirm the statement of counsel for the Larson Company that the percentage of redemptions to issues in January and February, 1920, was 26.083 while the average for the year was 23.319. Neither have I checked the figures for January and February, 1921, so as to be able to compare it with the percentage for the whole year. The same answer goes for each year.

I might add, however, that the sales in January are
7545 usually low, whereas the redemptions, there being Christmas in the December redemptions, are high. It would not be any criterion as to the rest of the year.

The figures for January and February, 1923, were in-
(4966) serted for no other purpose whatsoever than what I have already given. The figures were prepared by a man who did not know what they were to be used for. They were presented to me and looked over and checked roughly, typewritten and sent over to Mr. Mayer. All

that was asked was to get up a statement of coupons from the commencement of issue to date.

There is some truth in the assumption that the experience of January and February, 1923, is no criterion for the rest of the year. I qualify that because I cannot tell what is going to happen in 1924 or 1925. Judging from our past experience I would still make the statement that January and February, 1923, is no criterion for the rest of the year.

7547 In the statement I made previously with regard to the reserve for contingent liability for U. P. C. Coupons shown on our books as of March 1st, 1923, I gave the amount at 6,918,374.63. This figure was not quite correct by an amount of $19,552 and some cents, which was the credit we received from the United Profit Sharing Corporation in view of a temporary agreement we had with them during which we were to pack double No. 5 coupons in the boxes of gum with which we packed coupons when the amount exceeded 135,000,000. The reserve therefore
7548 that I gave is different from what it should be $19,552.

I cannot answer whether it should be nineteen thousand more or less than we set up on our books without seeing the books. Mr. Vincent has added it. I think it is deducted on the books.

It is hardly true to say that I testified that Mr. Offield had been paid no money except a regular salary. Mr.
7549 Offield has received from the Wrigley Company an
(4967) honorarium fixed per annum, but those are not the only moneys we have paid him because we have always covered his travelling expenses, expenses incurred in registering trademarks and things of that sort, but he has no income accruing to himself outside of expenses more than the yearly honorarium from us, which is ten thousand dollars per year. Mr. Offield was never engaged for any particular purpose. He is our general attorney, and does all we want in any field for the same honorarium. We never give him an extra honorarium. That honorarium covers no particular period. Any legal work we want is included in it.

7550 Mr. Offield was with the Wrigley Company and represented it at the time the accounting decree was entered, or about that time. I cannot answer whether he has continued to represent the Wrigley Company in connec-

nection with the litigation against the Larson Company since that time. He may be consulted from time to time, but he is doing nothing specifically in connection with the Larson litigation. That is all confided to Mr. Mayer and Mr. Lane.

In giving my figures of diminished sales I included the total sales of all gum, in answering the questions of Mr. Aldrich.

Redirect Examination by Mr. Mayer.

When we prepared Wrigley Exhibit 102, which was offered on the 20th of April, 1923, we had no figures for the month of March, and on April 20th we had no figures.
7551 Mr. Mayer requested me to include March, 1923, but I told him we had not gotten the figures, and was then told to close the statement. I understood that our counsel desired the statement brought down as late as possible
(4968) so that the master could have the latest and fullest experiences of the Wrigley Company before the case was closed.

(Mr. Mayer then asked the master's permission to bring the statement down to the last minute possible.
7552 The master said he did not think it would prove much, but he had no objection to the Wrigley Company bringing it down as far as possible.)

Our object in putting in the two dealer's certificates
7553 that I have referred to was with the idea of accelerating the rate of sales. In that connection we increased our advertising to increase sales. We gave double coupons in the jars on the same basis, on the box basis. That is, if there were twenty-five coupons in a jar which covered five boxes—that's at the rate of five coupons a box—they were double, we put in fifty coupons, but the basis was
(4969) two certificates for each twenty packages of gum.
7554 The expense of printing U. P. S. coupons is not included in more than one place in any of the corrected accounts which we have filed with the Master, or which Ernest Reckitt & Company have reported to the master. In other words, there is no duplication of such a charge. I wished to state by my answer to Mr. Aldrich that we had treated an item for U. P. S. printing sometimes as overhead and sometimes in the redemption figures but

not a duplication of the same thing. Our records show just how it was treated.

The item for printing U. P. S. coupons to which I have referred and to which reference has been made in the Marwick-Mitchell and Touche-Niven reports is an item for printing certificates and single coupons that are not
7555 part of the package of gum insofar as they are not the counterband. The counterband, the No. 1 coupon, is printed in conjunction and at the same time as the wrapper and is included in the cost of manufacture. The printing of U. P. S. coupons is for the dealers and salesmen's coupons and also for a No. 1 coupon we used to use in Juicy Fruit Long Bar.

Page 4 of the Ernest Reckitt & Company report marked Wrigley Exhibit 92; Benington 1 has the item of "Cost of Printing United Profit Sharing Coupons" under a column headed "Per Wrigley Company Statement" and another one "Per Statements Attached", and the amounts are between six and eight thousand dollars. Those items refer to the subject I have just been testifying to, namely, the printing of the dealer's coupons or certificates. In view of some of Mr. Aldrich's questions to me with regard to some possible errors in Wrigley Exhibit 102, I will check up the figures included in Mr.
(4970) Aldrich's questions and also prepare and submit to the master a corrected Wrigley Exhibit 102 which will contain such corrections as in my opinion should be made.

(Mr. Aldrich then offered in evidence a letter dated
7556 October 8th, 1918, from Parkinson & Lane to Charles H. Aldrich and a letter dated October 10, 1918 from Parkinson & Lane to Charles H. Aldrich, with forms of decree attached, Mr. Aldrich stating that the said forms of decree were submitted as counter proposals on the part of Parkinson & Lane, as Mr. Aldrich had already submitted a form of decree on behalf of the Larson Company. Mr.
7557 Mayer objected to the documents, and the objection was sustained, the master at the same time, over the objection of Mr. Mayer, striking out of the record Mr. Aldrich's statement made at the March 9, 1923, 10:30 A. M. session with relation to the settlement of the decree. Letter dated October 8, 1918 from Parkinson & Lane to Charles H. Aldrich, with two forms of decree attached, so offered but not received in evidence, marked "Larson Exhibit 191,

offered, not admitted"; Letter dated October 10, 1918 from Parkinson & Lane to Charles H. Aldrich, with two forms of decree attached, so offered but not received in evidence, marked "Larson Exhibit 192, offered, not admitted.")

7558 Mr. Mayer then offered in evidence Larson Exhibits 185 to 188, both inclusive, purporting to be the account between L. P. Larson Jr. Company and Charles G. Buck. Mr. Aldrich objected on account of immateriality, ir-
(4971) relevancy and incompetency. The objection was overruled and said documents, heretofore marked for identi-
7558 fication, so offered, were received in evidence.

Said Exhibit 185 is as follows:

Larson Exhibit 185.

(4972) FOR IDEN LARSON EX. 185 ADMITTED.

(Statement L. P. Larson Jr. Co., 201 East Ohio Street, Chicago, U. S. A.)

a/c of C. G. Buck & Co., Chicago.

1913		
Jan.	14	4.25
	"	9.75
	"	12.75
	28	3.25
	"	4.75
	"	14.75
Feb.	1	3.00
	18	20.50
	27	17.25
Mar.	10	16.75
	15	4.00
	20	13.75
	20	5.25
	"	6.25
	24	1.75
	27	13.70
	"	5.25
	"	3.75
	31	4.25
	"	2.10
	"	2.25

Mar.	31	4.50
	"	6.00
	"	4.50
	"	5.75
Apr.	1	.95
	"	3.50
	"	12.75
	7	18.50
	15	3.75
	"	.50
	"	1.75
	"	2.25
	"	2.75
	"	4.50
	"	1.50
	"	11.75
	"	1.50
	"	.50
	"	6.25
	"	6.50
	19	1.75
Apr.	19	11.75
	"	6.50
	21	.80
	"	4.25
	"	1.60
	"	3.00
	"	3.65
	23	5.47
	"	6.40
	28	.80
	"	6.00
	"	6.40
May	1	5.30
	"	4.75
	3	9.90
	6	6.75
	"	1.40
	10	3.20
	14	.60
	"	6.25
	"	2.45

May	16	3.80
	"	3.85
	19	6.95
	"	5.25
	"	1.75
	21	2.50
	"	1.40
	23	.60
	27	5.50
June	7	4.50
	"	1.40
	"	13.75
	"	6.20
	"	1.75
	"	6.75
	"	15.20
	17	8.75
	"	5.25
	"	3.20
	"	4.25
	"	14.25
		486.17
June	23	2.60
	"	.80
	"	1.25
	27	1.25
	"	11.75
	"	8.75
July	19	4.25
	23	3.75
	"	8.00
	"	9.50
Aug.	5	9.60
	"	20.60
	9	4.50
	24	28.80
	28	2.75
Sept.	2	12.65
	14	16.00
	11	4.50
	12	4.25
	15	6.25
	25	3.00

Sept.	25			7.25	
	29			11.35	
	"			3.25	
	"			11.75	
	"			12.60	
Oct.	7			5.25	
	"			16.75	
	11			1.25	
	17			16.00	
	"			5.50	
	"			2.50	
	"			19.50	
	23			3.25	
	"			5.25	
Nov.	1			13.40	
	20			4.75	
Dec.	6			12.75	
	"			12.75	
	"			3.75	
	"			4.25	
Dec.	6			7.25	
	15			4.25	
	"			5.25	
	"			15.00	
	"			8.75	
	"			7.25	
	22			1.25	
	27			10.50	
1914					
Jan.	6			5.25	
					888.32
1913					
Feb.	24	By	Cash	54.25	
Mar.	8	"	"	25.75	
	27	"	"	54.50	
Apr.	4	"	"	23.00	
	17	"	"	1.75	
	25	"	"	38.65	
	30	"	"	20.75	
May	2	"	"	3.50	
"	10	"	"	32.20	
	21	"	"	30.75	
	29	"	"	46.05	

June	7	"	"	51.77
"	14	"	"	5.20
"	25	"	"	30.30
July	3	"	"	35.85
"	12	"	"	32.45
	19	"	"	32.85
	25	"	"	24.75
	30	"	"	3.75
Aug.	1	"	"	17.50
Aug.	11	"	"	30.20
	12	"	"	5.20
	30	"	"	30.85
Sept.	3	"	"	3.00
	27	"	"	26.57
	"	"	"	2.08
	29	"	"	33.60
Oct.	10	"	"	3.25
Nov.	3	"	"	50.00
	"	"	"	3.00
	22	"	"	30.00
	29	"	"	30.00
Dec.	22	"	"	38.25
Dec.	29	"	"	31.75
				883.32

We render statements monthly of all accounts, due or not due, and is not a demand for payment unless due. For that part which is due we will draw on you Date
at sight for $. If for any reason you wish us not to draw notify us.
In the absence of a reply we shall expect our Draft to be honored.

Filed Jan. 7, 1925. John H. R. Jamar, Clerk.

(4973) Said Larson Exhibit 186 is as follows:

FOR IDEN. LARSON EX. 186. ADMITTED. Larson Exhibit 186.

(Statement L. P. Larson Jr. Co., 201 East Ohio Street, Chicago, U. S. A.)

Chas. G. Buck Co. in account with L. P. Larson Jr. Co.

1920		
June	1	200.00
Aug.	31	41.00
	31	4.50
Sept.	10	30.00
	10	25.00
	10	20.00
Oct.	20	30.00
Nov.	15	1.25
	15	4.50
	29	4.50
1921		
Mar.	28	4.75
May	13	19.50
	20	5.50
June	8	4.50
	14	3.75
	27	2.75
	27	6.00
Oct.	21	60.00
Nov.	7	3.25
	23	7.00
	23	39.00
Dec.	7	45.00
	7	52.50
	28	6.00
1922		
Feb.	13	15.00
	20	20.00
Mar.	20	27.00
	20	5.75
Apr.	29	5.75
June	9	25.00
	26	40.00
July	10	28.50
Aug.	24	20.00

Sept.	7			21.00	
Nov.	23			24.00	
1923					
Jan.	22			40.50	
Feb.	12			7.50	
"	12			5.00	
					905.25
June	2	By	Cash	200.00	
Sept.	11	"	"	45.50	
	27	"	"	55.00	
Oct.	22	"	"	50.00	
Nov.	29	"	"	10.25	
1921					
Mar.	31	"	"	4.75	
May	16	"	"	19.50	
"	21	"	"	5.50	
June	8	"	"	4.50	
"	16	"	"	3.75	
"	30	"	"	6.00	
"	27	"	"	2.75	
Oct.	21	"	"	60.00	
Nov.	11	"	"	3.25	
"	30	"	"	46.00	
Dec.	1	"	"	97.50	
1922					
Jan.	9	"	"	6.00	
Feb.	11	"	"	15.00	
"	20	"	"	20.00	
Mar.	14	"	"	32.75	
May	9	By	Cash	5.75	
June	1	"	"	25.00	
"	26	"	"	40.00	
July	8	"	"	28.50	
Aug.	23	"	"	20.00	
Sept.	6	"	"	21.00	
Nov.	23	"	"	24.00	
1923					
Jan.	20	"	"	40.50	
Feb.	10	"	"	12.50	
					905.25

(4974) Said Larson Exhibit 187 is as follows:

FOR IDEN. LARSON EX. 187.

Larson Exhibit 187.

(Statement L. P. Larson Jr. Co., 201 East Ohio Street, Chicago, U. S. A.)

Chas. G. Buck, 102 No. Franklin St.

1911				
Nov.	23	By Mdse.	5.75	
1912				
Jan.	6	" "	2.25	
	"	" "	.75	
	10	" "	17.50	
	18	" "	6.75	
	"	" "	16.75	
Feb.	20	" "	2.50	
Aug.	15	" "	44.75	97.00
Aug.	31	To Cash	52.25	
Sept.	14	" "	20.00	
	23	" "	24.75	97.00
Sept.	6	By Mdse.	5.25	
Oct.	8	" "	14.90	
Oct.	1	To Cash		20.15
Oct.	14	By Mdse.	10.50	
"	22	" "	6.25	
"	31	" "	24.05	
Oct.	31	To Cash		40.80
Oct.	31	By Mdse.	25.50	
Nov.	5	To Cash	25.50	
Nov.	12	By Mdse.	15.00	
	"	" "	19.50	34.50
Nov.	11	To Cash		34.50
	20	By Mdse.	14.75	
	29		14.75	
	"		6.00	
	"		6.25	
	"		10.00	
	"		1.75	
	30		5.25	

Dec.	6			12.00	
	17			15.25	
	20			3.75	
	26			12.00	
	30			7.50	
	31			112.20	221.45
Nov.	29	By	Cash	38.75	
1913					
Jan.	2	"	"	51.00	
1912					
Dec.	6	"	"	100.00	
1913					
Jan.	18	"	"	31.70	221.45
Dec.	31	By	Mdse.	9.25	
	"	"	"	6.25	
	"	"	"	12.00	
1913					
Jan.	14	"	"	4.25	
	"	"	"	9.75	
	"	"	(54.25)	12.75	54.65
1913					
Feb.	24		(54.25)		54.65

We render statements monthly of all accounts, due or not due, and is not a demand for payment unless due. For that part which is due we will draw on you Date at sight for $. If for any any reason you wish us not to draw notify us.
In the absence of a reply we shall expect our Draft to be honored.

(4975) Said Larson Exhibit 188 is as follows:

(4976) FOR IDEN. LARSON EX. 188. ADMITTED. Larson Exhibit 188.

(Statement L. P. Larson Jr. Co., 201 East Ohio Street, Chicago, U. S. A.)

			Chas. G. Buck Co.	Cre.
	1914			
	Jan.	20	By Mdse.	8.00
		20		6.50
		30		4.50
		30		7.25
		30		7.25
		30		9.50
		30		17.25
		30		24.50
		30		24.50
		30		23.75
	Feb.	4		4.00
		4		5.75
		4		8.00
		4		4.00
		4		2.50
		4		13.75
		9		39.00
		9		21.75
		20		15.75
		20		7.50
		20		5.50
		20		4.00
(4977)	Feb.	29		6.75
		29		8.70
		29		37.95
		29		8.70
		29		37.50
		29		34.60
	Mar.	11		25.80
		11		4.75
		20		10.25
		20		2.25
		31		32.50
		31		28.50
		31		25.06

	Apr.	10	16.25
		10	4.25
		10	10.00
		17	61.00
		17	1.50
		20	22.50
		20	15.00
		26	22.50
		26	34.00
(4978)	Nov.	4	30.00
		20	60.00
		27	50.00
	Dec.	10	50.00
		18	50.00
		31	100.00
	1916		
	Jan.	8	30.00
		22	40.00
	Feb.	5	30.00
		12	49.75
		19	50.00
		29	50.00
	Mar.	16	60.00
		27	60.00
		30	50.00
	Apr.	15	60.00
		8	50.00
		21	75.00
		27	50.00
	May	2	60.00
		9	60.00
(4979)	July	17	14.50
		17	34.00
		31	10.00
		31	18.25
	Aug.	10	7.50
		30	30.10
		30	52.50
		30	11.10
	Oct.	26	40.25
		30	2.25
	1917		
	Jan.	25	23.00
		25	10.00

	Apr.	10		18.25	
	Aug.	22		20.00	
		27		24.00	
					4,098.51
(4980)	May	20		25.00	
		26		25.00	
	June	4		25.00	
		18		20.00	
		26		20.00	
		30		25.00	
	July	12		25.00	
		20		50.00	
		29		35.00	
		24		10.00	
	Aug.	6		20.00	
		9		15.00	
		14		20.00	
		21		15.00	
		23		15.00	
		28		20.00	
	Sept.	3		20.00	
		11		20.00	
		21		20.00	
		28		20.00	
	Oct.	2		15.00	
		21		25.00	

Omitted 33.50 Chas. G. Buck Co. Dr.

(4981)	1914			
	Jan.	24	By Cash	50.00
		31		30.00
	Feb.	11		25.00
		14		25.00
		18		25.00
	Mar.	6		50.00
		14		25.00
		25		30.00
		28		20.00
	Apr.	3		25.00
		11		25.00
		15		30.00
		24		40.00

	May	5	11.50
		5	30.00
		16	25.00
		26	25.00
	June	6	25.00
		3	1.00
		16	25.00
		19	15.00
	July	2	25.00
(4982)	July	21	35.00
	Aug.	3	23.90
		18	44.10
		21	20.00
	Sept.	5	20.00
		8	.38
		16	20.00
		23	25.00
		23	25.00
		28	25.00
	Oct.	10	25.00
		15	50.00
		20	25.00
		22	25.00
		22	25.00
		26	25.00
		29	25.00
	Nov.	5	25.00
		7	25.00
		7	25.00
		13	25.00
		19	75.00
(4983)	Nov.	27	25.00
	Dec.	5	25.00
		10	25.00
		15	25.00
		23	25.00
		31	15.00
	1915		
	Jan.	12	15.00
		15	15.00
		21	15.00
		23	20.00
		30	15.00

	Feb.	5	20.00
		12	20.93
		26	20.00
		27	20.00
	Mar.	12	25.00
		23	25.00
		27	25.00
	April	23	25.00
	May	7	25.00
		7	100.00
		15	15.00
(4984)	Feb.	20	3.50
		20	13.75
		25	28.50
		25	4.00
		25	7.75
		25	13.75
		25	3.75
	Mar.	10	13.25
		10	2.00
		10	3.75
		10	5.25
		10	4.50
		10	1.75
		10	5.25
		10	9.25
		14	23.50
		14	1.25
		14	3.75
		15	13.75
		15	11.00
		15	2.00
		15	4.50
(4985)	Apr.	26	22.50
		26	9.30
		26	17.00
		26	13.50
		26	10.00
		26	22.50
		26	4.75
		26	10.00
		26	16.00
		26	4.50

		27	30.00
		31	59.50
		31	10.00
	June	10	25.00
		10	10.00
		10	5.75
		26	25.00
		30	22.50
		30	25.00
		30	17.50
		30	35.00
	July	17	20.00
(4986)	Oct.	22	4.50
	Nov.	7	111.50
		7	202.55
		17	31.68
		17	5.25
		17	2.50
		27	26.02
		27	10.88
		27	54.45
	Dec.	28	13.50
		28	1.25
		28	25.20
		28	2.75
		28	37.53
		28	4.35
		28	1.25
		28	1.50
		28	6.50
		28	20.00
		28	2.75
		28	3.75
(4987)	Feb.	25	5.00
		25	3.75
		25	11.00
		25	4.25
		25	3.75
		25	1.25
		25	2.75
		27	30.75
		27	9.50
		27	3.00

		27		3.00
		27		9.25
		27		6.00
		27		3.00
		27		35.05
		27	(4.75)	74.75
	Apr.	14		2.50
		14		1.25
		14		1.25
		14		2.75
		14		4.75
		14		3.00
(4988)	Mar.	24		4.75
		24		1.75
		27		5.25
		27		3.00
		27		19.50
	Apr.	15		28.50
		15		4.50
		20		3.25
		20		57.50
		24		4.25
		24		6.25
		24		6.50
	May	29		2.75
		29		3.25
		29		14.75
		29		3.25
		29		4.75
	June	15		4.25
	"	29		1.50
		29		.75
		29		1.75
		29		2.50
(4989)	1915			
	Jan.	30		1.50
		30		13.50
		30		15.25
		30		26.25
		30		4.00
		30		30.90
		30		1.00
		30		10.75

		30	6.75
		30	15.75
		30	1.75
		30	4.25
	Feb.	25	2.00
		25	6.25
		25	1.25
		25	6.50
		25	6.00
		25	2.00
		25	7.75
		25	7.75
		25	4.75
		25	10.25
(4990)	Mar.	29	.75
		29	2.00
		29	5.25
		29	5.25
	July	24	3.10
		24	15.85
		31	1.75
		31	2.75
		31	2.00
		31	18.05
	Aug.	17	21.50
		17	2.60
		17	2.75
		22	5.25
		31	2.00
		31	5.50
	Sept.	11	18.90
		26	14.50
		26	5.25
		26	5.00
	Oct.	12	1.75
		22	10.00
(4991)	Apr.	14	1.75
		14	4.00
		14	1.25
		14	1.25
		14	2.00
		14	3.00
		14	4.00

		14		2.75
		14		2.40
		14		4.00
		14		3.25
		22		30.00
		22		1.50
		22		11.00
		22		6.25
		22		1.50
		22		.75
		22		5.25
		22		1.25
	May	17		2.00
		17		6.75
		17		30.00
(4992)	Nov.	29		8.75
		29		3.25
		30		117.80
		29		5.75
	Dec.	17		8.75
		21		29.50
		21		4.00
		31		6.75
	1916			
	Jan.	8		15.00
		20		1.50
		22		61.50
		27		4.50
		31		2.00
	Feb.	7		4.00
		12		39.50
		12		27.50
		12	(6.25)	6.00
		12		2.00
		17		43.75
		21		1.75
		21		52.50
(4993)	May	17		32.70
		24		4.00
		24		4.50
		29		3.25
		29		2.00
	June	4		3.75
		4		16.80

	July	1	16.75
		1	7.50
		1	3.00
		1	3.50
		1	9.50
		1	.85
		9	9.75
		9	19.75
		9	12.75
		29	25.00
		31	35.00
		31	94.50
	Aug.	16	13.50
		16	8.75
		21	18.75
(4994)	Aug.	21	8.75
	Sept.	22	2.75
		22	3.00
		22	4.00
		22	4.00
		30	6.75
		30	4.00
		30	7.75
	Oct.	9	6.50
		9	11.25
		15	36.00
		19	7.25
		19	1.25
		26	6.50
		29	3.75
		29	14.25
		29	2.75
	Nov.	9	71.35
		9	4.00
		11	4.00
		11	16.25
		26	4.50
(4995)	May	15	60.00
		20	40.00
		29	50.00
	June	8	40.00
		20	30.00
		24	35.00

July	20	84.00	
	28	28.25	
	3	50.00	
Aug.	31	50.00	
Sept.	8	51.20	
Oct.	23	40.25	
Nov.	10	2.25	
1917			
Jan.	26	33.00	
Apr.	25	18.25	
Aug.	30	24.00	
Sept.	1	20.00	
			3,992.76

We render statements monthly of all accounts, due or not due, and is not a demand for payment unless due. For that part which is due we will draw on you Date at sight for $. If for any reason you wish us not to draw notify us.
In the absence of a reply we shall expect our Draft to be honored.

(4996) EDWARD W. ECKERLY, called as a witness by the
7559 L. P. Larson Jr. Company in rebuttal, having been theretofore sworn, testified on direct examination by Mr. Aldrich:

During the infringing period and prior thereto, at the beginning of the Larson litigation, I think Mr. Wrigley was the man that directed the policy and that the vice-president and the officials of the company followed his instructions. In 1914 or 1915 I believe we only had one vice-
7560 president, Mr. A. G. Cox. I became vice president in January, 1916. I canont tell you when Mr. B. L. Atwater became vice president, but it was on a later date.

(Mr. Aldrich then asked the witness who determined that the litigation by the Wrigley Company against the Larson Company commenced in June, 1915, should be begun. Mr. Mayer objected on the ground that the evidence was not germane to any issue referred to the Master, and was not rebuttal evidence. The objection was overruled.)

7561 I believe at the time the matter was handled entirely by Mr. William Wrigley Jr. and Mr. A. G. Cox. Probably

J. C. Cox might have had something to do with it, but I don't know. I myself had nothing to do with it, in fact, knew very little about the Larson case, if anything, until the accounting case began in October, 1918.

I have been active in the prosecution of this suit and aided in the prosecution thereof since the accounting be-
7562 gan. Since we filed our statement with the master I have been active because I figured that I could save a good deal of time to the main office, in fact I have proven that,
(4997) by sitting over in court and knowing what you wanted and how you wanted statements prepared and different things like that.

(Mr. Aldrich asked the witness whether the prosecution of this suit had been the subject of action by the directors of the Wrigley Company, and if so, when. Mr. Mayer objected on the ground that the evidence was not germane to any issue, and not rebuttal. The objection was overruled.)

I don't believe it has. We have no execute committee.

(Mr. Aldrich then asked the witness whether or not all of the executive officers of the Wrigley Company had aided in the carrying on of this suit. Mr. Mayer made the same objection that he had made to similar testimony of the witness. The objection was overruled.)

The executive officers all know about the case of the Larson Company and I believe that they have all had some part of the work to do. As far as aiding is con-
cerned I believe that the officers that appeared as wit-
7563 nesses before the master are the only officers that have really given any assistance. Mr. William Wrigley Jr. has not had a whole lot to do with the case. After the notice was received and we appeared before the master the work was really turned over to people like myself, Mr. Stanley, Mr. J. C. Cox and Mr. O. J. Buck. When the notice was delivered on us I believe at that time Mr. Stanley received the same. It was then, of course, taken up with Mr. Stanley and the balance of the officers and after that with our attorneys and we have been working on it right along before the master. Mr. A. G. Cox I believe
(4998) discontinued actively the latter part of 1915 and I succeeded him as vice president. Mr. O. J. Buck died I believe in the year 1915. But he ceased to be active in 1913. Mr. N. L. Buck took his position.

7564 May 3, 1923, 10:30 A. M.

WILLIAM HENRY STANLEY, a witness on behalf of Wm. Wrigley Jr. Company, resumed the stand for further direct examination by Mr. Mayer:

Since the adjournment yesterday I have prepared a corrected statement of Wrigley Exhibit 102. I have now the March, 1923, returns regarding the U. P. S. coupons
7565 issued and redeemed in that month. I have shown correctly the result of those issues and redemptions during that month on this new statement. The information contained on the new statement that I have here is correct.

(Mr. Mayer offered in evidence the said new statement as Wrigley Exhibit 102-A. It was received in evidence and so marked.)

7566 Said Wrigley Exhibit 102-A is as follows:

		No. 1	No. 5	No. 20	No. 25	Total in Terms of 1	Cumulative Running Total in Terms of 1
Year 1914	Issued	101,846,769	5,006,281			126,878,174	126,878,174
	Redeemed	1,291,767	116,953			1,876,532	1,876,532
	Percentage Redeemed	1.26%	2.33%			1.48%	1.48%
Year 1915	Issued	331,035,933	15,900,497		255,904	416,936,018	543,814,192
	Redeemed	52,699,640	3,766,474		81,435	73,567,885	75,444,417
	Percentage Redeemed	15.92%	23.69%		31.82%	17.64%	13.87%
Year 1916	Issued	436,615,990	20,858,740		394,918	550,782,640	1,094,596,832
	Redeemed	109,406,022	10,696,338		367,361	172,071,737	247,516,154
	Percentage Redeemed	25.06%	51.28%		93.02%	31.24%	22.61%
Year 1917	Issued	539,715,751	25,633,955		489,977	680,134,951	1,774,731,783
	Redeemed	129,090,602	14,310,535		467,198	212,323,227	459,839,381
	Percentage Redeemed	23.92%	55.82%		95.35%	31.21%	25.91%
Year 1918	Issued	554,492,910	26,750,287		384,072	697,846,145	2,472,577,928
	Redeemed	109,517,996	13,933,449		414,873	189,557,066	649,396,447
	Percentage Redeemed	19.75%	52.09%		108.02%	27.16%	26.26%
Year 1919	Issued	845,172,981	40,979,176		11,787	1,050,363,536	3,522,941,464
	Redeemed	131,021,414	18,456,525		96,174	225,708,389	875,104,836
	Percentage Redeemed	15.50%	45.04%		815.93%	21.49%	24.84%
Year 1920	Issued	918,490,301	42,748,653		357,163	1,141,162,641	4,664,104,105
	Redeemed	155,606,608	21,918,389		36,222	266,104,103	1,141,208,939
	Percentage Redeemed	16.94%	51.27%		10.14%	23.32%	24.47%
Year 1921	Issued	837,463,395	38,384,291		577,999	1,043,834,825	5,707,938,930
	Redeemed	176,308,641	25,430,881		249,276	309,694,946	1,450,903,885
	Percentage Redeemed	21.05%	66.25%		43.13%	29.67%	25.42%
Year 1922	Issued	801,298,222	48,222,711	601,894	546,341	1,068,108,182	6,776,047,112
	Redeemed	173,813,030	31,374,928	317,837	434,927	347,917,585	1,798,821,470
	Percentage Redeemed	21.69%	65.06%	52.81%	79.61%	32.57%	26.55%
Year 1923	Jan. Feb. & Mar. Only						
	Issued	203,620,594	9,748,551	316,222	53,330	260,021,039	7,036,068,151
	Redeemed	46,395,552	7,688,061	265,588	109,325	92,880,742	1,891,702,212
	Percentage Redeemed	22.78%	78.86%	83.98%	204.99%	35.720%	26.8857%

Copy of Wrigley Ex. 102-A.

(5000) I have changed the position of the decimal point on
7567 this new Exhibit, Wrigley 102-A. This carries forward all the corrections referred to yesterday in 102 so that Exhibit 102-A is a correct statement of the situation now. Yesterday we had the Exhibit on the decimal system, and in Exhibit 102-A we have it on the percentage system. The net result is that 26.8857 per cent of all the U. P. S. coupons that have ever been issued by the Wrigley Company up to the first of April, 1923, from the commencement have been redeemed. Allowing for the corrections that were referred to in Mr. Aldrich's questions to me yesterday, the inclusion of March, 1923, in the new statement, Exhibit 102-A, shows a continued increase in the redemptions.

7568 *Cross-Examination by Mr. Aldrich.*

As to whether there are any other changes in this Exhibit 102-A except as I have noted here this morning, and was suggested by Mr. Aldrich by his cross-examination of me yesterday, I will say that in so far as you pointed out under the No. 25s yesterday, that we had 800.16% which should be 815.93, the same reasoning would apply to the figures we had used on the old statement under 25s for the year 1918 where we had it 108.2. Those two on the original statement 102 were on a different principle to all the other percentage figures used. On the new statement, 102-A, we have reduced it to the percentage system all the way through. There is no change under the column pertaining to the No. 25s in 102A and 102, so far as respects the percentage of redemptions in 1918.

(5001) W. W. VINCENT, called as a witness by the L. P.
7569 Larson Jr. Company in rebuttal, having been theretofore sworn, testified on direct examination by Mr. Aldrich:

At the request of Mr. Aldrich I visited the Wrigley offices and made an examination of their profit-sharing coupon account. I checked the statement submitted by Mr. Stanley and identified as Wrigley Exhibit 102 and found it correct with the exceptions pointed out by Mr. Aldrich yesterday, which are as follows:

214,496 coupons were redeemed at double value and through error this number of coupons was included twice in Mr. Stanley's original statement.

7570 We found also that the percentage of redemptions to issues of No. 5 coupons for the year 1916 should be figured 51.28 per cent instead of 15.28 per cent, and that the redemption of No. 25 coupons as compared with the issues for 1919 should be 815.93 per cent instead of 800.16 per cent. These two latter corrections apparently are errors in transcribing the statement.

The reduction of the 214,496 coupons has the effect of changing the percentage of redemptions for January and February, 1923, from 36.919 to 36.794 and will also change slightly the cumulative percentage the end of February, 1923.

In that connection I made an examination of the Wrigley records with reference to the question whether the percentage of redemptions in January and February of the years 1919 to 1922 inclusive have any bearing or any con-
(5002) siderable bearing on the percentage shown in the experience of the Wrigley Company for the whole year. I did not do that during the accounting period.

(Mr. Aldrich then asked the witness to state what the witness's investigation in that respect showed. Mr. Lane objected on the ground of incompetency, irrelevancy and immateriality. The objection was overruled.)

7571 For the months of January and February, 1919, the issues were 162,900,280, and the redemptions were 50,573,-173. The percentage of redemptions to issues for that period was 31.045 whereas the average for the year 1919 was 21.489.

For the same two months of 1920 the issues were 160,-183,174 and the redemptions 41,779,917 and the percentage of redemptions to issues for that period was 26.083 as compared with the average for the year 1920 of 23.319.

For January and February, 1921, the issues were 150,-060,568 and the redemptions 54,811,092, making the ratio of redemptions to issues 36.526 as compared with the average for the year 1921 of 29.669.

For January and February, 1922, the issues were 165,-072,611, and the redemptions 60,945,262, making the percentage of redemptions to issues for that period 36.902 as compared with the average for the year 1922 of 32.573.

The percentage of coupons redeemed to coupons issued

in January and February, 1923, was, according to my
7572 figures, less in 1923 than in 1922. For January and February, 1923, the ratio of redemptions to issues was 36.794.

I have prepared a table which contains the same figures as contained in Wrigley Exhibits 102 and 102-A, with the addition that we have accumulated the issues and redemptions for each class of coupons throughout the period.

(5003) (Mr. Aldrich offered the said tabulation prepared by the witness in evidence as Larson Exhibit 193. It was received in evidence and was so marked.)

7573 Larson Exhibit 193.

(5004) (Mr. Aldrich then asked the witness whether or not
7574 this examination which he had made of the books of the Wrigley Company had led him to desire in any way to change his estimate of the amount or percentage that should be reserved for the redemption of profit sharing coupons as expressed in the Touche-Niven report. Mr. Mayer objected on the ground that the witness had no experience except as he had investigated the Wrigley account, that the question as to what is a correct percentage is a question for the court and not for the witness, and that the evidence was not proper rebuttal. The objection was overruled.)

It has not changed my opinion.

I have looked up Mr. Stanley's testimony where he referred to an omission of $97,000 in the Touche-Niven re-
7575 port with reference to the revenue rebate gum certificates. The amount of $97,000, as I understand it, is the portion of the sum of $380,580.45 which is included in the Exhibit marked Larson Exhibit 168, which I think
7576 was prepared by Mr. Stanley. This amount of $380,580.45 was not omitted by us, but on the other hand is included in our statements. The amounts for each year will be found on "Touche working paper No. 1 taken from for identification Touche Exhibit 15". On page 4 of that record is an item of $65.12 which covers the five months period ending December 31, 1914.

The book to which I am referring I did not call an Exhibit. I called it a working paper.

On page 6 of this Touche working paper No. 1 will be found $109,731.87 which is for the year 1915.

On page No. 7 of Touche working paper No. 1 will be
(5005) found $223,765.77 for the year 1916.

On page No. 8 of Touche working paper No. 1 will be found $43,982.38 for the year 1917.

On page No. 10 of Touche working paper No. 1 will be found $2,662.39 for the period January 1 to August 31, 1918.

On page No. 11 will be found $185.29 for the period September 1 to October 4, 1918.

On the same page of Touche working paper No. 1 will be found $187.63 for the period October 5 to November 12, 1918.

7577 The total of these figures which I have just read amount to $380,580.45 which is the amount shown in column 7 of Larson Exhibit 168 against line No. 12.

The total of the items on page 4 of Touche working paper No. 1, which includes the item of $65.12, is $1,776,-139.05, which figure will be found in Exhibit A-1 of Larson Exhibit 132 (Touche-Niven report). The aggregate of the figures contained on page No. 6 of Touche working paper No. 1, which includes $109,731.87, is $4,865,147.99, which will be found on Exhibit A-2 of Touche-Niven & Company report, Larson Exhibit 132.

The aggregate of the figures on page No. 7 of Touche working paper No. 1 which contains $223,765.77 is $6,300,-508.96. Which amount will be found on Larson Exhibit 83 of Touche-Niven & Company's Report, Larson Exhibit 132.

The aggregate of the figures on page No. 8 of Touche working paper No. 1 which contains $43,982.38 is $7,512,-910.91 which will be found on Exhibit 84 of Touche-Niven & Company's report, Larson Exhibit 132.

The aggregate of the figures on page No. 10 under the
(5006) heading "1/1-8/31" which contains $2,662.39, is $5,687,124.72 which will be found on Exhibit 85 of Touche, Niven & Company's report, Larson Exhibit 132.

7578 On page No. 11 of Touche working paper No. 1 in the column "9/1-10/4" will be found $185.29. The aggregate of the figures in that column is $822,314.31 which will be found on Exhibit A-6 of Touche-Niven & Company's report, Larson Exhibit 132.

On the same page will be found $187.63 in the column headed "10/5-11/12". The total of the figures contained in that column is $814,636.02, which amount will be found

on Exhibit A-7 of Touche, Niven & Company's report, Larson Exhibit 132.

I do not desire to say anything more with reference to this subject.

Cross-Examination by Mr. Mayer.

This $97,000 item has to do with War Tax Rebate certificates. The exact amount is $97,183.23. The total amount of the war tax rebate certificates in question was $380,580.45.

Doubllemint's share would be $97,000 odd, the way the
7579 Wrigley Company calculated it. I did not calculate it.

Touche working paper No. 1 that I referred to this morning is a book used by us during the course of compiling the figures for the Touche-Niven & Company report, Larson Exhibit 132. I think it was compiled subsequent to our examination of the Wm. Wrigley Jr. Company's books.

I would not say that our working sheets contained all the items pertaining to this war tax rebate certificate
(5007) payment. Our working sheets, with the exception of
7580 the advertising, are more or less summaries.

I have not read in answer to Mr. Aldrich's question, items from the different pages of our working sheets which I said amounted to $380,580.45. I have read exactly what I said. I have read the totals for the respective accounting periods. Those totals appear on our working sheets, and they aggregate $380,580.45. Those same items appeared on the books and records of the Wm. Wrigley, Jr. Company at the time we examined them, so that when we prepared and filed Larson Exhibit 132, the Touche, Niven & Company report, we were aware of that item, that war tax rebate certificate amounting to $380,580.45. In preparing that Touche, Niven & Company report, Larson Exhibit 132, we did not give the Wrigley Company credit for any part of that $380,580.45 as affecting the Doublemint accounting. I charged that against the cost of sales.

7581 On page 5 of the Touche, Niven & Company report, Larson Exhibit 132, we state what we say is a summary according to the Wrigley Company's analysis of the advertising charged to Doublemint in the accounting filed with the Master, and we gave various items including

the following: "War tax rebate certificates, $97,182.23". We folllowed that up on the same page by saying: "The total amount expended by Wm. Wrigley Company for advertising all brands of gum, including Doublemint, during this period under review was $6,363,082.11". In giving that figure, $6,363,082.11, I omitted the war tax rebate certificate item in the sense that it is not included in there.

I have before me page 1 of the Touche-Niven & Company report, Larson Exhibit 132. I say on that page:

7582 (5008) "According to the accounting prepared by the Wrigley Company and filed with the Master, the loss on sales of Doublemint during the period in question, exclusive of sales in Canada and Australia, after the formation of Companies in those countries, was $272,627.53." We also say in that connection that excluding interest on profits and excluding good will or residual value of advertising, that the profits on the sale of Doublemint during the accounting period, were, in the opinion of Touche, Niven & Company, $2,840,528.74. In arriving at that figure of the profit which we say was made on Doublemint during the accounting period, we did not make allowance for that item of $98,183.23 on account of the war tax rebate certificates.

7583 That $2,840,528.74 should not have been reached by us to the extent of $97,183.23.

I have testified that we did not give the Wrigley Company credit for that $97,183.23. I testified that it was charged to cost of sales.

I do not mean to tell the Master that in arriving at our figure, $2,840,528.74 we gave Wrigley credit for $97,183.23 in the manufacturing cost of Doublemint gum. The manufacturing cost and the sales were agreed on, and we did not change that at all. As a matter of fact there was no place in which we gave Wrigley credit for that $97,000 item in preparing our figures which resulted in $2,840,528.74 which we say were Wrigley's profit on Doublemint.

7584 If the Master had adopted our figure of $2,840,528.74, he would not in my opinion have erred against the Wrigley interest to the extent of that $97,183.23, in view of the fact that the sales and the cost of sales had been agreed upon.

It was my understanding that the cost of sales had

been agreed upon between Larson's counsel and Wrigley's counsel.

By the expression "cost of sales had been agreed on"
(5009) I mean the cost of the gum that was sold.

As to what was included in the cost so agreed upon, according to my understanding, I will say I made no investigation of that subject at all, and I have no understanding. I presume Mr. Aldrich, when he agreed upon it, took the position that everything was charged in there that was properly chargeable to the manufacturing costs.
7585 In ordinary accounting parlance the cost of sales does not exactly mean the entire cost of producing and disposing of the product. The cost of production includes all that you produce. The cost of the sales is what you produce plus what you had on hand at the beginning of the year, or the period, and less what was unsold at the end of the period. That is the only difference. In other words, you take the production, add your inventory at the beginning and deduct your inventory at the end and that is the cost of what has been disposed of. I call that cost of sales, cost of what was sold.

I don't know that the Wrigley Company included that amount not in the cost of sales but as in advertising expense. They did that in the accounting here. They charged it to the advertising.

The war tax rebate certificate here under consideration may be in the nature of a discount.

I read over Mr. Stanley's testimony regarding these war tax rebate certificates and I read his testimony to
7586 the effect that it was an allowance made by the Wrigley Company to their customers on account of war taxes and amounting to 4 cents a box.

As to whether in the final analysis that 4 cents a box which had to be paid to the government was really borne by the Wrigley Company by reason of their having given
(5010) to their customers a certain number of boxes of gum in exchange for a certain number of war tax rebate certificates, I will say I understood Mr. Stanley to say that they increased the sellling price of the box and recovered the 4 cents in that manner.

I understood Mr. Stanley to say afterwards they sent out these war tax rebate certificates to their customers and afterwards upon the return of those certificates by the customers to the Wrigley Company the Wrigley

Company gave free a certain number of boxes of gum for a certain number of those certificates. They gave one box for sixteen certificates.

7587 It is correct to say that in the last analysis that reduced the amount of money that the Wrigley Company received from their customers for their gum. That is the reason I charged it to cost of sales. In other words, in my opinion, the fact that the Wrigley Company gave out these certificates and then exchanged them for gum reduced the amount of money that Wrigley's received as the purchase price for their gum. I take it that was in the nature of a discount.

It is not good accountancy practice to charge as a cost of manufacture a discount allowed by the manufacturer

7588 to his customer, but the effect is identical if you deduct it from the gross sales, that is to say, the gross profit will be the same amount as it is in the way I handled it. "Gross profit" is the difference between the proceeds of sale less discounts and allowances and less cost of goods sold. By "less cost of goods sold" I do not mean the cost of selling. I mean the cost of goods which have been sold. By "cost of goods sold" I mean the manufacturing cost. I do not mean the sellling expense.

I do not regard a discount as a selling expense. I think it ought to be deducted from the proceeds of sales, (5011) gross proceeds of sales. A discount allowed by a

7589 manufacturer to his customer has nothing to do with the cost of manufacturing. I say that the discount allowed by a manufacturer to his customer is not an item that should be included in the cost of manufacturing.

I have not treated this morning in my testimony the expression "cost of sales" as synonymous with "cost of manufacture". As to what distinction I make between those two, I will say that I made the explanation that the cost of manufacture is the cost of production or the cost of what you produce, and the cost of sales is that cost of production plus the merchandise that you had on hand at the beginning of the period and less the merchandise that you have on hand unsold at the end of the period.

7590 My definition "cost of sales" does not take into consideration at all any of the selling expense. As an accountant I should say that I would not expect to find these war tax rebate certificates included or covered by the cost of manufacture.

I did not understand that the only thing that had been agreed upon between the Larson counsel and the Wrigley counsel was the cost of manufacture and the proceeds of sales. I did not know what had been agreed upon, but I did understand that the sales and the cost of sales had been agreed upon.

(Mr. Mayer then asked the witness whether he didn't understand that the cost of manufacture had been agreed upon. Mr. Aldrich objected on the ground that the witness had just said that the cost of manufacture is included in the cost of sales, and that the witness had made
7592 that statement twice on the record. The Master stated he believed the witness had answered the question. Mr. Mayer then proceeded to another question.)

(5012) I produced a new Exhibit here this morning which has been offered in evidence as Larson Exhibit 193. That Exhibit follows the form of Exhibit N attached to Touche-Niven & Company's report, Larson Exhibit 132.

Larson Exhibit 193 makes corrections in Exhibit N attached to the Touche, Niven & Company's report, Larson Exhibit 132. There is a foot note on Larson Exhibit 193 which explains that.

I have referred in my answers to Mr. Aldrich's questions to me this morning to some errors which I say I found in Wrigley Exhibit 102, which was filed on April 20, 1923 and shows the United Profit Sharing coupon issues and redemptions down to May 1, 1923. I have already said they were clerical errors.

The two corrections in the percentages are clearly clerical errors, but the inclusion of 214,496 coupons in duplication I think was simply a mistake. That mistake was not a mistake of the type that I would criticise as evidence of any intent or anything of that kind. The mistakes I found in Wrigley Exhibit 102 simply mean the cumulative percentage of redemptions are 26.789, in-
7593 stead of 26.8 That is a negligible difference in the percentage, but applied to 1,865,000,000 coupons I don't know what number that would figure.

May 3, 1923, 2:00 P. M.

In Larson Exhibit 193 in the column headed "No. 1
7594 Wrappers" I have a grand total of 5,498,983,608 and a total redemption of 1,070,300,310. Underneath that I have a percentage to number issued as 19.064.

My attention being called to those figures, I will say that the percentage should be at least 19.46, instead of
(5013) 19.064. I did not bring my working sheets, but those callculations were made by a calculating machine and I did not go over them myself.

From an examination of Mr. Mayer's calculations, I
7595 will say that the next figure would have been at least a 3, so that the actual per cent of No. 1's redeemed to those issued would be at least 19.463.

I believe there should be a verification of those figures on Larson Exhibit 193. I will verify those figures.

7599 (Mr. Lane offered in evidence the registration in the United States Patent Office of the Peptomint Label by the L. P. Larson Jr. Company as a trade mark for chewing gum, registered March 26th, 1912, as trade mark 85910. Mr. Aldrich objected. The objection was sustained.

(Said registration of Peptomint label, so offered but not received in evidence, was marked "Wrigley Exhibit 106, offered, not admitted.")

(5014) May 9, 1923, 2:00 P. M.

7600 W. W. VINCENT, resumed the stand for further direct examination by Mr. Mayer:

I have brought here a corrected statement of Larson Exhibit 193.

7601 In addition to the mistake which was called to my attention, I found another mistake. In addition to the cumulative percentages for the number of coupons which should be 19.464 instead of 19.064, I find an error in the percentage of No. 5 coupons. The correct percentage of redemptions to issues for the entire period should be 53.577 instead of 55.055. Those are the only two errors.

(It was agreed that the corrections mentioned by the witness might be made on Larson Exhibit 193.)

I have prepared a statement of reserve for redemption
7602 of U. P. S. coupons per books showing the balances at beginning and end of each year with the changes during the year where I had stated it in dollars.

(Mr. Aldrich offered the said statement in evidence. It was received in evidence and marked Larson Exhibit 194.)

7603 Said Larson Exhibit 194 is as follows:

WM. WRIGLEY JR. COMPANY

STATEMENT OF RESERVE FOR REDEMPTION OF U. P. S. COUPONS. PER BOOKS, SHOWING THE BALANCES AT BEGINNING AND END OF EACH YEAR WITH THE CHANGES DURING THE YEAR.

	1919	1920	1921	1922	1923
Balance at beginning	$2,499,967.09	3,715,980.11	4,971,760.57	5,921,578.42	6,819,972.66
Reserve set up on basis of 60% of redeemable value	1,893,138.18	2,054,092.76	1,878,902.69	1,922,594.71	* 306,638.6
Together	$4,393,105.27	5,770,072.87	6,850,663.26	7,844,173.13	7,126,611.26
Deduct cost of coupons redeemed	677,125.16	798,312.30	929,084.84	1,043,752.75	* 188,684.36
	$3,715,980.11	4,971,760.57	5,921,578.42	6,800,420.38	6,937,926.90
Add Credit allowed by U. P. S. Corporation on coupons other than No. 1 denomination redeemed during 1922 in excess of 135,000,000 units, per agreement of December 5, 1921— 39,104,555 units @ 50c				19,552.28	
Balance at end of period	$3,715,980.11	4,971,760.57	5,921,578.42	6,819,972.66	6,937,926.90c

*January and February only

c Balance per books February 28, 1923.

Larson Exhibit 194.

(5016) The paper needs no explanation or comment. It is a
7604 summary of what the books show. It explains itself.

WILLIAM HENRY STANLEY, a witness on behalf of the Wrigley Company, resumed the stand and testified on direct-examination by Mr. Mayer:

Larson Exhibit 194 purports to be a statement of our U. P. S. coupon reserve, and there is a credit of $19,552.28
7605 shown thereon under the year 1922, and the Exhibit says that that credit was allowed by the U. P. S. corporation on coupons other than No. 1 denomination redeemed during 1922 in excess of 135,000,000 units per agreement of December 5, 1921. The agreement with the United Profit Sharing Corporation that we receive a credit of 50 cents per thousand units redeemed was effective as long as we continued to pack double coupons for the retailers in our goods that were sold with coupons. That was the understanding and it was to be effective only during that time, that on their part they were to give us the credit of fifty cents a thousand of the coupons used for that purpose, that is, retailers' coupons, and only during the period that we continued to pack double coupons.

7606 From January, 1922, to some time in July, 1922, we continued to pack double coupons in the manner I have just stated.

I would show this contract to Mr. Vincent. I might say, so there is no misunderstanding about the Exhibit Mr. Vincent is putting in Larson Exhibit 194, that we have reversed the credit entry of $19,552.28 and instead of adding it to the reserve of $6,800,420.38 we are deducting it from the reserve, thereby reducing the $6,800,-
(5017) 420.38 by $19,552.28, which in the final figures under 1923 on Larson Exhibit 194, namely, $6,937,926.90, there will be a reduction of two times $19,552.28. The reduction would be two times $19,552.28 because, instead of adding it to the reserve that is set up on our books, we deduct it from the basic amount we start from.

Our books show our U. P. S. coupon reserve as of March 1st, 1923, was $6,898,821.34.

7607 I don't mean that our books on March 1st, 1923, showed that figure. I mean as of March 1. I will explain just what the nineteen thousand plus which has led to these

corrections has to do with our reserve. It does not really add to or detract from our reserve, but as we have received a credit for it and do not want to make a separate item of it, we are going to reduce our reserve by that amount. The adding of it was totally wrong, because if we redeemed coupons and didn't have to pay for the coupons three dollars a thousand, there is absolutely no reason whatsoever for adding it to the liability for outstanding coupons. It really does not touch the outstanding coupons at all, but we are throwing it in as a reduc-
7608 tion of the reserve to keep the coupon account together. From a taxation standpoint we will be worse off by reducing our reserve and taking it as a profit than as taking it in as a reduction of expense incurred by the coupons. That amount really should not be put in the reserve. It is really the reduction of the expense incurred in the redemption of coupons. That is what it is. But then it throws it into the surplus account and we do not keep it in our coupon account.

The addition of that $19,552.28 which I have been referring to, instead of its later subtraction, is a clerical
(5018) misunderstanding in making the entry. It all happened in January, 1923.

(Mr. Aldrich said he was making no charges in connection with this entry.

7609 I will state how in the final revised account respecting advertising, which I think is marked Wrigley Exhibit 65: Stanley 2, I allocated or charged the cost of that part of the advertisements stating "Made by the manufacturers of the famous Wrigley's Spearmint. Wm. Wrigley Jr. Co." The expense of the space occupied by the text and logotype, "made by the manufacturer of the Famous Wrigley Spearmint" was allocated to Spearmint in Wrigley 65: Stanley 2. No part of the cost of the space occupied by that phrase just quoted to me was charged to Doublemint in our revised account, Wrigley Exhibit 65: Stanley 2.

7610 The language to which I just referred in answer to Mr. Mayer's last question appears elsewhere than on the labels or counterbands. I am not referring to the language used on the labels or counterbands at all. I am referring to that remark or that text with the logotype as used in the advertisements in newspapers and magazines and street cars and posters.

7611 I have prepared a statement showing the per cent of net profits to sales from 1911 to 1919 as shown by the books of the Wm. Wrigley Jr. Company.

7612-13 (Mr. Lane offered the said statement in evidence. It was received over the objection of Mr. Aldrich, and marked Wrigley Exhibit 107.)

(5019) 7613 Said Wrigley Exhibit 107 is as follows:

Wrigley Exhibit 107.

7613 "WRIGLEY vs. LARSON

Percentage of Net Profits to sales—1911-1918 as shown by the company's books.

Year	Net Sales as per Books	Net Profits as per books	% of Net Profits to Net Sales
1911	$ 5,860,464.58	$1,490,074.47	25.426%
1912	7,282,769.57	2,084,154.49	28.618%
1913	8,973,137.89	2,343,213.77	26.114%
1914	8,008,536.07	1,399,404.75	17.474%
1915	9,717,145.33	2,048,823.12	21.085%
1916	12,482,342.87	2,443,030.04	19.572%
1917	15,713,657.84	2,883,981.06	18.353%
1918	17,048,206.53	2,417,353.69	14.179%

(5020) HAROLD BENINGTON, a witness on behalf of the
7614 Wrigley Company, resumed the stand for further direct examination by Mr. Mayer:

I have examined the books and records of the Wm. Wrigley Jr. Company with a view of determining what amount of excess and federal income taxes would have been required of the Wm. Wrigley Jr. Company in the year 1917 and also in the year 1918 if the profit earned in those years on Doublemint gum had been the only profits earned by the Wm. Wrigley Jr. Company. I have prepared a statement showing correctly what the result of that examination would be.

(The witness produced said statement. It was offered in evidence by Mr. Mayer. It was received in evidence and marked Wrigley Exhibit 92: Benington 20.)

7615 Said Wrigley Exhibit 92: Benington 20, is as follows:

"WRIGLEY vs. LARSON

Wrigley Ex. 92; Benington 20.

Effect of calculating Federal Income Taxes on Profits of Doublemint on three different theories.

	1917	1918
As per Account originally filed, (calculated at highest rates paid by Co.),	$258,682.72	$305,251.17
As per Wrigley's Exhibit #92, Benington #1, Statement #15, also calculated at highest rates paid by Company,	309,997.96	311,111.01
As per Wrigley's Exhibit #92, Benington #1, Statement #16, calculated by charging against Doublemint Profits the same proportion of the total taxes paid by the Company as the profits from Doublemint bore to the total profits of the Company,	162,286.02	210,656.07
If Doublemint Profits are considered as the only profits earned, and the Invested Capital employed Doublemint's proportion on a production basis of that as shown by Wrigley's Exhibit #92, Benington #1, after adjusting for Intangibles,	154,106.27	273,631.24

(5021) The examination was taken up by Mr. Lane:

7616 As to whether part of the report I have just referred to is the last statement on that sheet, Wrigley Exhibit 92: Benington 20, I will say my remarks are descriptive of the last paragraph on that sheet and the figures relating thereto.

The amount of the taxes as shown by that last statement for 1917 was $154,106.27, and $273,631.24 for 1918. The statements contained on Wrigley Exhibit 92: Benington 20, preceding the last one correctly states the situation concern that document. I want to add this regarding the last figure on the statement. I just want to make it clear that the calculation is approximate to this extent, that in making the calculation I have ignored any changes in invested capital during the years in question. That is, for 1917 I have treated as invested capital the invested capital of January 1st of that year, and in 1918 the invested capital at January 1st of that year. Had I done the thing very meticulously, the tax would have been a little bit more on account of the invested capital being diminished through the payment of dividends and taxes, and as the invested capital diminishes of course the tax

7617 increases. Taking these figures the way I have is beneficial to the Larson Company instead of the Wrigley Company in this accounting.

Cross-Examination by Mr. Aldrich.

In figuring my invested capital I considered the surplus. I was not going to pay the dividends from the Doublemint's earnings. I was going to pay them out of the accumulated surplus and earnings of the Wrigley Company.

(5022) (Mr. Aldrich then put the following question:

"Q. So this is not in fact a statement of considering Doublemint earnings alone, is it?)

Yes. As Wrigley Exhibit 92: Benington 20 expresses in its wording, the profits of Doublemint are considered by themselves, but in determining the federal income and excess profits tax which is to be assessed on such earnings it is necessary to assign to the Doublemint business when considered as an entirety a sum to represent its invested capital and that I have taken to be such a proportion of the invested capital of the whole Wrigley business as the production of Doublemint during the years in question
7618 bore to the total production of the company, and to answer you specifically about these dividends, if I were making the calculation with the idea of drawing a check to pay to the authorities, I would go into the question of these dividends and I should assign to Doublemint's business the same percentage of the dividends paid as I assigned—I mean I would use the same percentage as I used in determining Doublemint's share of invested capital.

For the purpose of this calculation I assumed that the Wrigley Company had employed in its whole business a certain amount of invested capital, and I further assumed that the proportion thereof which is reasonable to be assumed was employed for Doublemint purposes would be a proportion equal to the percentage which the Doublemint production bore to the total production in each year. I gave no special consideration to the question as to whether or not the original plant had been built for
(5023) Doublemint or that Doublemint was taken on after it had been constructed and equipped.

As to whether I desire the master to understand that the Government would accept a return to be made on any such basis as I have used for the purpose of this computation, I will say I do not quite understand the question

of counsel for the Larson Company. Of course, the Gov-
7619 ernment would not permit the Wrigley Company's making a separate return for the profits on one brand of gum if that is what you mean. You can only make a return on your profits as a whole, but starting with the premises laid down in my heading to this calculation the mechanics of the calculation are exactly such as the Treasury Department would accept with the one exception, as I say, of the consideration of dividends paid which would very slightly increase the tax.

(Mr. Mayer then offered in evidence a certified copy of the opinion of the District Court of the State of Iowa for Scott County in the name of *Elizabeth H. Bettendorf* v. *Joseph W. Bettendorf, et al.* Mr. Aldrich objected. The objection was sustained.)

(The said opinion so offered but not received in evidence was marked "Wrigley Exhibit 108, offered, not admitted.")

The following then occurred:

(5024) Mr. Lane: I understand that the Master has re-
7620 fused to permit the Wrigley Company to offer any further testimony concerning the proper method of allocating advertising along the lines of the testimony given in New York and elsewhere.

Am I correct in that, Mr. Morrison?

The Master: Well, I don't know that I have refused. My position on all those questions is pretty well stated by the record. The number of witnesses was limited?

Mr. Lane: Yes.

Mr. Aldrich: The number was limited and I think they filled their number.

The Master: Then that would mean, Mr. Lane, that I would not hear any further witnesses.

Mr. Lane: In view of the refusal of the Master to receive the testimony of any further witnesses concerning the proper method of allocating advertising in this case, we offer and expect to prove by the following available, disinterested witnesses, all of whom were available for use as witnesses in this case at the time the Master ruled that he would receive no further testimony on that subject:

W. H. McLaughlin, Advertising Manager Walter Baker & Co., Ltd., Pierce Square, Dorchester, Mass. (Chocolates and Cocoa).

7621 W. J. Jones, Manager, Jos. Campbell & Co., Camden, N. J. (Soups and Beans).

C. F. Vrown, of E. I. DuPont de Nemours & Co., Wilmington, Del. (Explosives, Paints, Chemical, etc.).

Burton K. Woodward, Manager, Hall Hartwell Co., Troy, N. Y. (Shirts, Collars, Underwear).

Louis Stevenson, Advertising Manager, Landers, Frary & Clark, New Britain, Conn. (Hardwarem Household Utensils, etc.)

R. E. Thompson, Advertising Manager, Larkin Com-
(5025) pany, Buffalo, N. Y. (Soaps, Perfumes, Chemicals, etc.)

A. P. Repetti, Advertising Manager, Mennen Company, Newark, N. J. (Talcum powders, Shaving Creams, etc.).

Chas. E. Murname, United Drug Co., Boston, Mass. (Roxbury) (Operator, among other things, of Rexall Stores).

Eben Griffiths, Advertising Manager, Vacuum Oil Co., New York, N. Y. (Oils, etc.)

Mr. Scofield, Treasurer, and Dr. F. H. Peck, E. R. Squibb & Sons, New York, N. Y. (Talcum Powders, etc.)

Frank W. Harwood, Advertising Director, General Cigar Co., New York, N. Y.

Mr. L. Bruch, Advertising Director, American Radiator Co., Buffalo, N. Y. (Radiators, etc.)

N. H. Reed, Advertising Manager, Standard Oil Co. of Indiana, Chicago, Ill. (Gasoline, Oils and Various Products).

Austin S. Iglehart, Iglehart Brothers, Evansville, Indiana. (Swansdown Flour).

7622 the following facts as an entirety and also each of said facts separately:

1. That each of said witnesses has had long experience in connection with the extensive advertising of various products sold by the Company with which he is connected, and accountings in connection therewith, and has been generally familiar with the methods of national and extensive advertisers of various kinds and characters of products, both as to the manner of distributing and utilizing the advertisements and of allocating the expense of advertising between various products advertised.

2. That each of said witnesses will testify that it has
(5026) always been the practice of the company with which

he is connected, and with all other companies with which he is familiar, to charge the entire expense of all advertising of a given product as an expense of selling such product, and that this charge is made at the time of paying the bills for such advertising, and that no portion thereof was charged, or should be charged, against any other product than that advertised, nor was any of the
7623 expense thereof deferred either as a good will item or as a selling expense of any other product or item than that advertised, and that this is the only fair method of charging the expense of advertising.

3. That the expense of advertising any given product is charged entirely as a selling expense of that product in the same manner that it would be charged if it had been incurred as an expense of selling the same by a salesmen, and that this is the only fair way of charging the expenses of advertising.

4. That the relative receipts from the sales of two or more products advertised in a given advertisement is no criterion of the amount which should be charged as an expense of selling those products through advertising, because the sales in no manner reflect the proportionate amount paid for the space occupied by the products advertised in a given advertisement.

5. That the sales of advertised and non-advertised products in no wise reflect the expense or cost of selling the advertised products, and any attempt to apportion
(5027) any advertising expense on the basis of sales of the various products dealt in by the advertiser does not truly
7624 show the profits derived from the advertised articles.

6. That each of these witnesses has examined the books of the Wm. Wrigley, Jr. Company (Larson Exhibits 30 to 36 inclusive) and understands the manner in which the Wrigley Company has advertised its own name, the name "Wrigley", and its various products advertised, both individually and severally, and is familiar with the various products sold as a result of such advertising, and has examined and is familiar with the method of allocating the expense of this advertising in arriving at the profits of Doublemint gum as shown on Wrigley Exhibit 65: Stanley 11, and documents in support thereof, and that the method there used is the one generally used by manufacturers and merchants generally in ascertain-

ing the profits of various products advertised and sold by them, and that it is the fairest and most equitable method of arriving at the expense thereof as applicable to the profits of the product advertised, and that all of the expense of such advertisements should be charged as incurred as a selling expense exclusively against the products mentioned in the advertisements on the basis of the
7625 allocation used in Wrigley Exhibit 65: Stanley 11.

7. That the method in Wrigley Exhibit 65: Stanley 11 should be adopted whether in accounting between de-
(5028) partments of any business or between various products advertised by any company, or where one is seeking to accurately ascertain the profits of a given article, so they could be paid over to a stranger of an accounting company, who has been awarded the profits by a court decree.

Mr. Aldrich: I object as immaterial, irrelevant and incompetent under the terms of the decree, as coming at too late a date, that the restriction made by the master was a reasonable one, and that they have had the full number of witnesses, and that as to the latter part of the offer made with reference to advertising, namely, that the same rule would in the opinion of the witnesses named be applicable as between a company and the person it had injured by infringement, is offering testimony on a subject that is not within the province of a witness to say. That is a matter that belongs wholly to the Master.

Mr. Lane: Your Honor will recall that in New York you insisted we ask the question with that qualification in it in most instances, and so we are putting it in both forms.

7626 Mr. Mayer: I want to make just one statement. In answer to that part of Mr. Aldrich's objection in which he says it comes too late I want to dispute that statement particularly on the ground that we have not heretofore closed our proofs or been ordered to close our proofs, nor have we stated that we have closed our proofs. On the contrary, we have been putting in proofs all afternoon. Mr. Aldrich has been putting in some proofs today.

Mr. Lane: Not only that, but we offered to prove this before and the refusal was made some time ago.

(5029) Mr. Mayer: We long ago stated when the Master asked us how near we were to being through, and while

we were putting on one witness after the other, that we intended to make a formal offer of proof with regard to advertising and also with regard to the redemption of U. P. S. Coupons in view of the Master having limited the amount of testimony that we could offer on those two subjects.

Mr. Aldrich: I want to say on the record that I do not so understand the facts. I do remember that they said they were going to make a formal offer on the two subjects Mr. Mayer stated, but I declined to enter on my rebuttal until their proofs were closed and I understand that their proofs were closed and that all the rebuttal was closed except the formal matters to which I have not yet
7627 directed the Court's attention today.

Mr. Mayer: Well, I cannot understand the consistency of Mr. Aldrich's statement. In one breath he admits I am right in saying that we have notified the Master in prior hearings and long before we closed out proofs that we did intend to make formal offers, and in fact made that statement at the time the master made the limitation, and it has always been understood that we were going to make formal offers.

The Master: Well, I cannot see that the time when this is offered cuts any particular figure in the case because the ruling would have been the same if the offer had been made long ago. I will sustain the objection. I am not sure that what has transpired shows the exact condition. That is to say, while we were taking testimony in New York and before you had completed the taking of testimony I announced that I would limit the witnesses on that subject to a given number. You were not through
(5030) putting on witnesses on that branch of the case and you continued afterwards and called further witnesses before you reached the limit that the Master had placed on the number of witnesses.

Mr. Lane: I understand the situation as the Master states it, but with the further statement:

It was known by everybody at that time we had more than the number to which the Master had limited us in readiness for giving their evidence and we so stated at the time.

7628 Mr. Mayer: Am I right in saying that no point is

made upon the fact that the witnesses referred to in Mr. Lane's offer are not now physically before the Master?

The Master: There is no such element in the objection.

Mr. Mayer: That's my understanding. That ends that subject.

The Master: Yes. I think that makes it clear.

Mr. Lane: We offer to prove by Sidney A. Kirkman of Brooklyn, New York, that

1. He is President of Kirkman & Sons, concerning whose coupon and redemption experience testimony has been given in this case by Mr. A. L. Brenner and M. H. Richards.

2. That he has been familiar with the experience of his company in connection with the issue and redemption of coupons for about thirty years.

3. That the facts concerning the issuance and redemption of coupons of the Kirkman Company are correctly stated in the testimony of Mr. Brenner and Mr. Richards who have testified in this case.

4. That he has for years made a study of the issue and redemption of coupons in connection with the sale of
(5031) various kinds of products and with various characters and denominations of coupons as issued by many con-
7629 cerns in the United States, and that he has given careful consideration to the issue and redemption of the coupons put out by the Wm. Wrigley Jr. Company in connection with the sale of its gum products.

5. That taking the experience of his own company, of the Wm. Wrigley Jr. Company, and others over a long period of time into consideration, and his familiarity with the large quantity of coupons which are redeemed many years after their issue, and the fact that the Wrigley coupons are so widely distributed throughout the entire United States, and the coupons around each package of gum have a small redemption value, he is of the opinion that it would be entirely unsafe for the Wrigley Company to set up as a reserve for the United Profit Sharing Coupons an amount less than that representing sixty per cent of the total number of all kinds of coupons issued, and that in his judgment the Wm. Wrigley Jr. Company will, especially in view of the fact that they have no limit of time in which to redeem their coupons, be compelled to

redeem in excess of sixty per cent of the total number of all kinds of coupons issued.

7630 6. That he is also of the opinion that the Wm. Wrigley Jr. Company will have to redeem at least sixty per cent of all coupons issued in connection with its sale of gum between July, 1914, and November 12, 1918.

Mr. Mayer: That offer is made both as an entirety and also separately as to each statement therein, and we want the offer to also show that Mr. Kirkman is not interested in this litigation.

(5032) Mr. Aldrich: If the Court please, to all and each part of said offer I object on the ground that it is immaterial, irrelevant and incompetent.

The Master: You had two persons from that same company, did you not, anyway?

Mr. Aldrich: Yes, they did.

The Master: Objection sustained. I do not place it, however, on that ground. I place it on the ground that there was a limitation made of the number of witnesses that might be called upon that question.

Mr. Lane: I might say for the benefit of the court that Mr. Kirkman at the time we were in New York was not available.

Mr. Mayer: But he is now.

Mr. Aldrich: But the order has been made. If he had not had any witnesses on the subject, he could not be

7631 allowed to answer questions of that character or put in testimony to that effect.

The Master: Well, objection sustained.

(5033) (Mr. Mayer then made a motion to strike out that

7631 part of the testimony of the Larson Company's witnesses who expressed their opinions as to what should be a proper amount to set up as a reserve on account of contingent liability for the redemption of the issued U. P. S. coupons. The motion was denied.)

(Mr. Lane then called Mr. Aldrich's attention to the fact that a few days before he had asked him to produce the original letters that passed between Parkinson & Lane and Mr. Aldrich in connection with the decree and especially the Parkinson & Lane letter of October 4, 1918, with the decree attached. Mr. Aldrich said he had not been able to find it, but that if Mr. Lane had a copy of the letter and stated that it was a copy, and a copy of the

decree Parkinson & Lane had sent Mr. Aldrich under date of October 4, 1918, Mr. Aldrich would admit it.)

7632 (Mr. Lane then stated that before the Wrigley Company should be compelled to close proofs, the Larson Company should be compelled to put in whatever proof it
7633 desired in connection with the so-called Canadian and Australian accountings; that any other method of procedure would be "piecemeal" proceeding; that Larson
(5034) Company's experts had gone over the records of the Canadian Company and completed their examination thereof a long time ago, and the accounts have been available to the Larson Company for a long time, and if there is to be no evidence taken or report given concerning the report filed regarding the Canadian Company's business on April 21, 1922, there was no necessity for the expense being incurred by either side. Mr. Aldrich objected to any delay on account of the Australian and Canadian companies. Mr. Aldrich stated that the record showed that the extension for the filing of the Canadian report
7634 was granted only on condition that the American case should be proceeded with and that the master at that time had indicated that he would make a separate finding as to the American case, and that he, Mr. Aldrich, had proceeded on that basis and has been so busy with this case that he has not been ready to go on with the other case, although Larson Company's accountants have submitted to him a report on the Canadian Company.

(Mr. Mayer stated that he preferred to have the master rely on the record as made rather than to acquiesce in Mr. Aldrich's recollection of it. The master said the
(5035) record would have to speak upon the facts of the case.
7635-6 The master said that the impression left on him by the record was that he should make separate reports if the evidence in the American case was concluded before the testimony was completed regarding the Canadian and Australian companies; that it had been the contention of counsel for the Wrigley Company from the beginning that the business done through the Canadian and Australian companies should not be included in the accounting, and the expense to those two companies would be saved; that the business of those two companies was entirely separate and distinct from the business done directly by the West Virginia Company, and no reason

existed that he could see why the report should be held up until the accountings of those companies should be completed.

(5036) (June 11, 1923, 10:30 o'clock A. M.

7637 W. W. VINCENT resumed the stand for further direct examination by Mr. Aldrich.)

I have examined Wrigley Exhibit 107, with the result that I have adjusted Wrigley Exhibit 107 to include two comparatively large items which were charged directly to surplus account in the year 1918. These two adjustments related to the U. P. S. Coupon Reserve and to the Amortization of Patents and Patent Rights, both of which
7638 were written off in 1918. I also excluded from the statement for the purpose of comparison the income and profits taxes which were paid in the latter period but for which no similar items were paid in the years 1911 to 1913. This was merely for the purpose of comparison. I have prepared a table for the purpose of showing the actual facts with the changes and eliminations which I have stated.

(Mr. Aldrich offered the said statement in evidence. Mr. Mayer objected, stating he had not had time to ex-
7639 amine the document. The master admitted the document subject to Mr. Mayer's objection, stating that if the objection was sustained, the document would be stricken out. The document was marked Larson Exhibit 196, and was entitled "Statement showing relation of net profits, per books, exclusive of income and profit taxes, to net sales for the period 1914 to 1918, inclusive".)

7640 (Larson Exhibit 196).

7641 At Mr. Mayer's request I sent for the working sheets which I used in preparing Larson Exhibit 196. They are here now. I might say that one working sheet has already been identified. It is part of our surplus account which was included in the original working sheets which we have
(5037) submitted. The said working sheets are numbered
7641 542 to 650, both inclusive. The only other working sheet
7642 is a sheet which I now produce. There may have been some scratch paper used, but I have not that now. The scratch paper was destroyed as soon as we arrived at the

figures which I included in the sheet I hand to the stenographer. They are, however, not material because you can trace the figures from there onto this surplus account.

(Said working sheet headed "Statement showing relation of net profits per boxes, exclusive of income and profits taxes, to net sales for the period 1914 to 1918 in-
7634 clusive" was marked for identification Larson Exhibit 197. Mr. Aldrich then offered in evidence a petition for rehearing on behalf of appellees filed in the United States Circuit Court of Appeals for the Seventh Circuit, October Term A. D. 1920, in case No. 2831, and especially page 8 of such petition with the chart referred to on said page 8. Mr. Aldrich stated that the language he was offering in evidence was: "The complete counterband of this package has uniformly been as shown on plate IV", and he offered in evidence in connection therewith said plate.
7644 Mr. Lane objected on the ground that, among other
7646 things, said plate did not show the complete package. The master said that he would regard the matters in evidence if he reached the conclusion that they were com-
7647 petent for any purpose. Mr. Lane then stated that Mr. Benington had discovered an error of omission by which he had failed to give as a credit to Doublemint its proportion of certain dividends on investments aggregating $17,378.30. Mr. Aldrich agreed that Mr. Benington might go on the stand and explain the said item. Harold Benington resumed the stand for further examination by Mr. Lane.)

7648 The cause of the omission of this amount of $17,378.30 was that in calculating the invested capital on which the
(5038) Wrigley Company is claiming that interest should be
7648 allowed as a deduction, I included the investment in two companies as part of the invested capital and properly so, but I forgot to include as income the dividends received from the two companies, and this statement which I now hand you sets out the details. That will correct Wrigley Exhibit 92: Benington 1 to the extent of increasing the profits of Doublemint in the amount of $17,378.30. I think that will appear on page 23. It will also affect totals and figures on other statements contained in my report to the extent and in the amounts as mentioned on this second sheet which I am going to hand Mr. Aldrich. I discovered this failure to include the item that I have

7649 just referred to. I called it to Mr. Lane's attention. I did not receive any suggestion from the counsel for the Wrigley Company with respect thereto. I drew Mr. Lane's attention to it and Mr. Lane agreed that it would be proper to call the master's attention to it and make the necessary correction. The net result of this error is that whenever we examine Wrigley Exhibit 92: Benington 1, and find a final figure there mentioned as my opinion of the total loss for the entire accounting period, that it will be out of the way to the extent that if it is a loss that is shown, that loss should be diminished by $17,378.30. In other words, the practical effect of the discovery of this error is exactly the same as though I had discovered that Doublemint had made a profit during the entire accounting period amounting to $17,378.30 which was not referred to but had been omitted from Wrigley Exhibit 92: Benington 1.

7652 (June 11, 1923, 2 o'clock P. M. The master stated that certain testimony given by Nelson L. Buck had been objected to by Mr. Aldrich at the time it was given, and that it had been received by the master subject to Mr. Aldrich's objection; that Mr. Aldrich, soon after Mr. Buck's
(5039) testimony was closed, stated that he was going to make
7652 a motion to strike out the testimony of Mr. Buck he objected to. The master had indicated that he was going to sustain the motion, and that the master would so act, was understood by both parties thereafter; that Mr. Aldrich had requested an opportunity to put his motion in writing, and on May 18, 1923, had filed said motion. The said written motion is as follows:

7653 "We respectfully request that the following contracts and papers produced in connection with the testimony of Nelson L. Buck on and subsequent to November 20, 1922, together with his identification thereof, may be allowed to remain in the record, and that all the rest of the testimony of Nelson L. Buck be stricken from this record:

Buck No. 33, Copy of contract dated October 15, 1910, between Albert M. Price and the Zeno Mfg. Co.

Buck No. 34, Proposition made by Zeno Mfg. Co. to the W. Virginia Wrigley Co. dated January 3, 1911.

Buck No. 35, Conveyance from Zeno Mfg. Co. to Wm. Wrigley Jr. Co., dated January 3, 1911.

Buck No. 36, Assignment of Patent 968,109 from Bar-

bieri & Dellenbarger to Wrigley Co., dated February 18, 1911.

Buck No. 37, Assignment from Zeno Mfg. Co. to Wrigley Co. of Patent 965,598, dated April 14, 1911.

Buck No. 38, Assignment of patent 968,110, from Barbieri & Dellenbarger Co. to Wrigley Co., dated Feb. 18, 1911.

7654 Buck No. 39, Assignment of patent 1,185,822, from Albert M. Price to Wrigley Co., dated Feb. 10, 1919.

Buck No. 40, Assignment of patent 1,109,461, from A. M. Price to Wrigley Co., dated Feb. 10, 1919.

Buck No. 41, Letter from Charles H. Aldrich to Messrs. Isaac H. Mayer and Wallace R. Lane, dated March 9, 1922.

Buck No. 42, Carbon copy of letter to Charles H. Aldrich, dated March 24, 1922.

Buck No. 56-A, Contract dated January 2, 1905, between New York Wrapping Machine Company and Rubber Paint Company.

Buck No. 56-B, Contract dated January 2, 1905, between New York Wrapping Machine Company and Rubber Paint Company.

(5040) Buck No. 56-C, Contract dated November 17, 1906,
7654 between New York Wrapping Machine Company and Rubber Paint Company.

Larson Exhibit

No. 157, Contract between Wm. Wrigley Jr. Co., Package Machinery Co. and A. M. Price, dated December 22, 1919.

No. 158, Patent No. 881084 issued to A. M. Price March 3, 1908.

No. 159, Patent No. 880,465, dated February 25, 1908, to A. M. Price.

No. 160, Patent No. 931,646, issued August 17, 1909, to A. M. Price.

No. 161, Patent No. 942,101, issued December 7, 1909, to A. M. Price.

No. 162, Contract between Albert M. Price and Wm. Wrigley Jr. Co., dated October 24, 1912.

7655 No. 163, Contract dated August 5, 1915, between Albert M. Price and Wm. Wrigley Jr. Co.

No. 164, Contract dated July 18, 1916, between Albert M. Price and Wm. Wrigley Jr. Co.

No. 165, Agreement dated February 10, 1919, between Albert M. Price and Wm. Wrigley Jr. Co.

No. 166, License agreement dated February 10, 1919, between Albert M. Price and Wm. Wrigley Wrigley Jr. Co.

No. 169, Letter dated April 7, 1909, to the Zeno Mfg. Co. signed 'Barbieri & Dellenbarger Co.'

No. 170, Letter dated July 9, 1910, to the Zeno Mfg. Co., signed 'Barbieri & Dellenbarger Co.'

No. 171, Letter dated July 13, 1910, to the Zeno Mfg. Co., signed Barbieri & Dellenbarger Co.

No. 172, Contract dated August 19, 1910, between Zeno Mfg. Co. and Barbieri & Dellenbarger Co.

Buck 57, Certified copy of assignment from Albert M. Price to Zeno Mfg. Co., dated April 14, 1910, of application which resulted in patent No. 992,590 to Price.

Buck 58, Assignment which resulted in patent to Price No. 992,590 from Zeno Mfg. Co. to Wm. Wrigley Jr. Co.

Buck 59, Contract dated November 26, 1909, between Zeno Mfg. Co. and Barbieri & Dellenbarger Co.

(5041) Buck 62, Assignment dated September 7, 1910, from
7655 Barbieri & Dellenbarger Co. to Zeno Mfg. Co.

Buck 63, Agreement dated February 18, 1911, between Barbieri & Dellenbarger Co., Wm. Wrigley Jr. Co. and Zeno Mfg. Co.

Buck 64, Being a compilation of payments made in connection with the purchase of K, KL and KLM machines from Albert M. Price.

A statement of royalties to Albert M. Price from May 8, 1917, to January 4, 1922.

7656 It is the purpose of this motion to preserve to the record the contracts and agreements under which the patents upon which interest and depreciation is claimed were required, and to have stricken from the record all testimony of Nelson L. Buck regarding the operation under these so-called patents, the savings effected thereby, the practice of other manufacturers, the photographs purporting to show the style and operation of said machines, and all statements, computations and tabulations pur-

porting to show the pretended savings effected through the use of said machines, and in depreciation and interest at the several factories of the Wrigley Company or with which said company has common interests.

Respectfully submitted,

CHARLES H. ALDRICH,
Solr. for L. P. Larson Jr. Co."

(The master, after sustaining the motion, said that he would strike out Mr. Buck's testimony so far as it related to testimony offered for the purpose of establishing values by showing the claimed superiority of the patented machines over other machines open to the Larson Com-
7657 pany. The said ruling was made over the objection of the Wrigley Company's counsel.)

HAROLD BENINGTON resumed the stand for further examination by Mr. Lane.)

I have here two sheets of paper wherein I explain how in the preparation of the revised account known as Wrigley Exhibit 92: Benington 1 an earning of $17,378.30,
(5042) attributable to Doublemint, was inadvertantly excluded.
7657 I now hand it to the reporter. I would explain that the $17,378.30 must be considered as applying on the reduction of the interest on invested capital which it is sought
7658 by the Wrigley revised account to have deducted from the earnings attributable to Doublemint and that if for any reason the master should disallow interest on invested capital, then this amount of $17,378.30 must also be eliminated, that is, it would be disregarded entirely, the reason being that we have taken the investment on which these dividends were earned and treated it as part of invested capital, and of course if you throw out the invested capital, of course this earning should be thrown out because it has nothing to do with Doublemint gum, it is earning from an investment entirely outside.

(Mr. Lane then offered in evidence the said two page document, which was entitled "Dividends on Investments not included in Revised Account (Wrigley Exhibit #92 Benington #1)". The document so offered was received in evidence and marked Wrigley Exhibit 92: Benington 21, sheets 1 and 2.)

I have here the original sheet on this matter which I
7659 had here morning. (The witness then handed the sheet, to which he referred, to Mr. Aldrich). The ultimate result shown on that sheet I have handed to Mr. Aldrich is the same as shown on Wrigley Exhibit 92: Benington 21. The result is identical.

Cross-Examination by Mr. Aldrich.

The exhibit that was not offered in evidence this morning contains more than one sheet of paper. It contained two sheets only. The second sheet was the same as the
(5043) one I attached to this Wrigley 92: Benington 21, ex-
7659 cept the heading. The figures are the same. The only
7660 difference between the one I now offer and the one that Mr. Lane wished changed before it was offered and for which I was recalled this afternoon, is that in the sheet as I first prepared it, the names of the companies from which these dividends were derived were given and the heading is slightly changed. There are no other changes.

The investments from which these dividends were derived are included in the invested capital upon which interest is claimed as a deduction in the Wrigley revised account. That means that any amount of stock in either the Dreyfus Company or A. D. Shoup Company through which the Wrigley Company derived dividends is included in the capital investment as stated in the Wrigley filed account upon which interest is computed. There
7661 are no other shares of stock in other companies so included in that capital account to my recollection, but there is a statement in my report which shows just how the invested capital is arrived at. I believe that is on statement 8 of my report. To the best of my knowledge I believe, without referring to my detailed working papers, there are no other investments in subsidiary or allied companies included in the capital investment. The Canadian Company is excluded as I particularly state in the caption of the statement, statement 8, which sets up the invested capital, that I have particularly stated that it is excluding good will, patents and Canadian and Australian companies. I am referring to page 38 of Wrigley Exhibit 92: Benington 1. Then on page 40, referring to the same statement, I list the assets which I have ex-

cluded from invested capital for the reason they were not
7662 employed in the manufacture and sale of gum, and you notice there they are investments such as school warrants and investments in Swift & Company and Northwestern L, and so on. Obviously investments as such and not
(5044) having any bearing on the manufacture and sale of
7662 gum. I excluded any investment in the Canadian company for the reason that a separate accounting has been made of the Canadian business. I mean both in this court and on the Wrigley books. That is to say, that in the books of account of the Wrigley Company its investment in the Canadian company is shown, and as regards the matters before this court a separate accounting of the profits derived from the manufacture and sale of Doublemint, with respect to the Canadian company, has been ordered filed and has been filed. I cannot tell you
7663 what the Wrigley Jr. Company's ownership of stock in the Canadian company consists of at present.

7670 (June 18, 1923, 2 o'clock p. m. During the course of the argument before the Master Mr. Mayer stated that the Wrigley Company will want this record to show before it is closed what the April and May U. P. S. redemptions are, to which Mr. Aldrich replied that he doesn't know whether it should or should not. Mr. Mayer then said the matter was discretionary with the Master; that Mr. Aldrich claimed that the Wrigley Company tried to put in January and February for an improper motive, notwithstanding the testimony showed that Mr. Stanley was under directions from counsel to have it brought down as late as possible which the Wrigley Company always intended to do; and that the Wrigley Company therefore will want the record to show that at the end of March, 1923, the United Profit Sharing Coupon redemptions were 26.885; that at the end of April, 1923, it was 26.929; that at the end of May, 1923, or June 1, 1923, it was 26.947. Mr. Mayer further stated that Larson Company's counsel may verify those figures. Mr. Aldrich then suggested going on with the argument and that he would want to consult with Mr. Vincent about the examination of the Wrigley Company's books and if the Master
(5045) thought the Wrigley Company ought to be allowed to make the proof he does not wish to argue the matter further.)

7671 (WILLIAM HENRY STANLEY thereupon resumed the stand for further direct examination by Mr. Mayer.)

I have just heard the cumulative redemptions stated by Mr. Mayer. That information was furnished to Mr. Mayer by me. I made the investigation so I know what
7672 the facts are in regard to that matter. There has been nothing done to accelerate or change in any way the redemptions in the normal course of business as heretofore carried on.

The per cent. of all the coupons issued by the Wrigley Company from the time it went into business up to the end of March, 1923, which were redeemed, was 26.885. At the end of April, 1923 the per cent. of all issues redeemed, was 26.929. The percentage of all the U. P. S. coupons issued by the Wrigley Company from the time it
(5046) first started to issue them up to the end of May, 1923,
7672 which were redeemed, was 26.947.

7673 (The master stated that he would take the testimony of Mr. Stanley subject to Mr. Aldrich's objection, and Mr. Aldrich's reservation to have Mr. Vincent examine the books.)

7674 June 19, 1923, 10:30 o'clock A. M.

"Mr. Lane: We offer in evidence at this point the working papers of Mr. Stanley concerning which I said yesterday they were available to you, so there can be no question about their being in the record for your use, and we will supply them to the master so they may be here and no question raised about their being part of the record. They have always been available, but we will have them actually filed as Wrigley Exhibit 109: Stanley Working Papers.

Mr. Aldrich: To which I object, if the court please, as immaterial and irrelevant and not competent at this time. I desire the record to show that objection.

The Master: I don't know whether they are competent or not. If it is not to entail a considerable extra work on the part of the other side, I would not exclude them because they were not offered before.

Mr. Lane: They are all records that have been avail-
7675 able to the other side all the time.

Mr. Mayer: And have been used by them.

The Master: Have they?

Mr. Aldrich: I presume they have, but I don't want to make any admission on it until I have Mr. Vincent's word about it.

The Master: Well, I will withhold a ruling until you have a chance to talk with Mr. Vincent."

(5047) (Tuesday, June 26, 1923, 2 o'clock P. M. During Mr.
7676 Mayer's argument, the master inquired about the tentative credit for overpayment of taxes, to the extent of $422,223.64, appearing on Wrigley Exhibit 92: Benington 1, page 21, and which amount the Wrigley Company had deducted from the taxes paid on its 1919 return.
7677 Mr. Mayer asked Mr. Stanley at that point what the situation was. Mr. Stanley stated that there had not been any allowance made by the Government or anything done by the Government in respect to that claimed deduction. Mr. Stanley also said that he didn't think the Government had got down to the examination of the 1919 returns yet.

During the same afternoon, while discussing the redemption of U. P. S. coupons, Mr. Aldrich stated to Mr. Mayer that Mr. Vincent had reported to him during
7678 the noon hour that he, Mr. Vincent, had confirmed the Wrigley Company's figures for March, April and May, 1923, with respect to United Profit Sharing Coupons, and that Mr. Mayer would, therefore, understand that the Larson Company was not disputing those figures.)

(5048) (Thursday, June 28, 1923, 10 o'clock A. M. During
7679 Mr Aldrich's argument in rebuttal before the master, he asked permission to introduce certain letters and documents on the question of compensation paid to Mr. Freeman, one of the witnesses called by the Larson Company. Mr. Aldrich said he wanted the letters and documents in evidence in connection with a statement he charged Mr. Mayer to have made during the oral argument, that Mr. Freeman was on a contingent basis, and that the testimony of Mr. Freeman was affected thereby. Mr. Aldrich's offer in this connection was as follows:

"I offer the check dated August 16, 1922, payable to the order of Herbert C. Freeman, signed by L. P. Larson Jr. Co. by L. P. Larson Jr., president, drawn on the Mechanics & Traders State Bank of Chicago, Illinois,

with Mr. Freeman's endorsement on the back thereof:
7680 'Pay to the order of the New York Trust Company',
signed Herbert C. Freeman.

I also offer four notes, dated August 16, 1922, each for the sum of $250.00, due respectively, one, two, three and four months after date, payable to the order of Herbert C. Freeman, signed by L. P. Larson Jr. Co. by L. P. Larson Jr., president, with stamps thereon, and each of which is endorsed by Herbert C. Freeman and also by L. P. Larson Jr. personally, to the New York Trust Company, and each of which has a mark on it showing that it has been paid to the Continental and Commercial National Bank of Chicago.

I also offer in evidence a letter dated April 17, 1922, on the letter paper of Touche, Niven & Company, public accountants, to Charles H. Aldrich, Esq., The Rookery, purporting to enclose a memorandum of Mr. Freeman's charges, asking me to approve the same.

I also offer in evidence a statement of account dated April 6, 1922, making Touche, Niven & Company debtor to Herbert C. Freeman Wrigley vs. Larson, the total sum of which is $1,252.40., which is the one that was re-
7681 ferred to in his letter, and it is the statement that Touche, Niven & Company handed to me on April 17th asking for my O. K., and it has on the bottom of the bill just the words 'O. K., Charles H. Aldrich'.

I also offer in evidence a letter of August 16, 1922, to Herbert C. Freeman, care of the National Cloak & Suit Company, 7th Avenue and 24th Street, New York, signed by L. P. Larson Jr.—this is a carbon copy, if the court please, I have not the original, I am offering a carbon
(5049) copy—president, and below that 'L. P. Larson Jr.
7681 Company'.

I next offer his letter dated August 21, 1922, addressed to L. P. Larson Jr. Esq., 201-203 East Ohio Street, Chicago, Illinois, and signed by Herbert C. Freeman. The letter is written in longhand and consists of four pages.

And I also offer Mr. Larson's answer thereto of August 23, 1922,—carbon copy of his answer—to Herbert C. Freeman."

(Mr. Aldrich then asked that the letters and documents be marked as one exhibit. Mr. Mayer objected to the testimony going in and stated that he desired to ask Mr. Larson a few questions.

7682 L. P. LARSON Jr. resumed the stand for further cross examination by Mr. Mayer.

I met Mr. Herbert C. Freeman the first day he testified before the master.

(Mr. Mayer then asked Mr. Larson to have present in the afternoon all letters, telegrams and correspondence, or copies of them, that passed between them and his company or anyone on behalf of him and Mr. Freeman, or anyone on his behalf, or the passage between Mr. Larson and his company or anyone on behalf of his company, or Mr. Aldrich, or anyone else, pertaining to the
7683 subject matter. Mr. Mayer then stated that he would subdivide his request and would ask Mr. Larson, first, to have here, for use on cross examination of Mr. Larson, all letters, telegrams, correspondence and copies thereof that passed between him and Herbert C. Freeman, or between Herbert C. Freeman and L. P. Larson Jr. Company, or anyone on its behalf, referring to or in any way having any bearing on the subject matter for which the check, notes and correspondence have just been offered by Mr. Aldrich. Mr. Mayer then asked Mr. Larson if he would produce the correspondence and copies of the tele-
(5050) grams which had just been asked for. The witness
7683 said that Mr. Mayer had all the correspondence in his hand that had gone between Mr. Freeman and the Larson Company or Mr. Larson personally. The witness continued:)

By that I mean the correspondence that Mr. Aldrich described this morning and offered in evidence. I mean that Mr. Mayer has all the correspondence to anything whatsoever between Mr. Freeman and the L. P. Larson Jr. Company or Mr. L. P. Larson Jr. personally. By saying
7684 that Mr. Mayer has all the correspondence, I am referring to the correspondence that Mr. Aldrich produced here this morning. That is all the correspondence there has been between Mr. Freeman and the L. P. Larson Jr. Company, or anybody representing him and the L. P. Larson Jr. Company. There has been no correspondence with Mr. Freeman, or anyone representing him, on one hand and the L. P. Larson Jr. Company, or anybody representing it, on the other hand.

I did not turn over to Touche, Niven & Company the

looking after of the accountancy matters for the L. P. Larson Jr. Company in the case on hearing. Mr. Aldrich
7685 did. Mr. Aldrich had the authority, as the attorney handling the case, to do whatever was right and to get justice.

I never knew that Mr. Aldrich had any correspondence with Mr. Freeman as to his services or as a witness in this case. I understood the nature of the testimony that Mr. Aldrich wanted and he asked for it, and Mr. Whitworth, of Touche, Niven & Company, introduced Mr. Freeman to Mr. Aldrich.

(Mr. Mayer then stated he would also like to have produced for examination correspondence between Touche, Niven & Company, or anyone on its behalf, and Herbert C. Freeman, pertaining to the matter of Mr.
(5051) Freeman's charges. Mr. Aldrich objected.
7686 The master then sustained the objection to the offer of the documents, stating that that would take the papers to the court, and that he was not going into a collateral matter at that time. Said documents so offered, but not received in evidence, were marked Larson Exhibit 198, sheets 1 to 12 inclusive, "offered, not admitted".
7687 June 29, 1923, 10:30 o'clock A. M. During Mr. Aldrich's reply argument, Mr. Mayer asked Mr. Stanley whether there was a waiver filed by the Wrigley Company with the Government in connection with the 1917 taxes. Mr. Stanley said that the company did not have to file any waiver; that under the old law the case is open for legal adjustment or court adjustment five years from the date the reassessment is made.) I mean by that that the four hundred and twenty some hundred thousand
7688 dollars is still subject to adjustment and is not allowed by the Government; that the Wrigley Company was withholding that amount until the Government had finally determined the matter.

(Mr. Mayer then stated that he was not referring to the matter that Mr. Aldrich was; that he was simply asking whether the Wrigley Company filed a waiver in connection with their 1917 taxes, or whether they did not. Mr. Stanley answered that the Wrigley Company had not filed such a waiver. Mr. Mayer stated that he wanted that statement of record, and Mr. Aldrich stated that he would like to have it of record also.
7689 Mr. Stanley stated that in making the statements just

referred to, he was giving his answers as a witness under oath.)

(5052) (During the taking of testimony an effort was made
7690 to have Larson Exhibits 30 to 36 for identification, being the seven scrap books of advertising by the witnesses, available for use as evidence in the case without their formal introduction. An arrangement was made by which either party might select from these books such portion thereof as it might desire should be considered in evidence at any time before the testimony should be closed. This arrangement was not carried out although a portion of the contents of these books was introduced in evidence at the time the arrangement was made, but no further selection was made by either side as to the remainder.

During the consideration of this case the master reached the conclusion that all of the contents of these seven books of advertising placed during the accounting period should be in evidence, and so notified counsel on both sides of the case, and it was agreed that they be considered in evidence in all respects the same as if they had been offered before the testimony was closed, with the understanding, however, that they need not be returned into court with the transcript, but be impounded with the Wrigley Company to be produced by that company in any court before which this case may hereafter be presented when desired by the court or by the attorneys on either side of the case.

(Said books, heretofore marked for identification, Larson Exhibits 30 to 36 incl., marked Admitted.)

7691 On July 27, 1923, James Hall, the accountant appointed by virtue of the provision of the decree, filed with the master a statement of the services rendered by him and those working under him in examining the books and records of the Wrigley Company and making a report
(5053) introduced in evidence showing a balance due of $2,-
7691 232.50. The statement was submitted to counsel on both sides of the case for their consideration and both sides agreed in effect that it was correct and the amount shown to be due should be paid.

(Said statement, so filed, marked Exhibit: Hall Statement.)

On September 21, 1923, the Larson Company filed a sworn statement of the account of Touche, Niven & Company, certified public accountants, who rendered services

for Larson Company during the progress of the accounting in examining the books and records of Wrigley Company and making the report offered in evidence as Larson Exhibit 132, and for other services. This account was submitted to counsel for the Wrigley Company for their inspection and they addressed a communication to the master expressing the opinion that compensation paid to the accountants was not a proper subject of inquiry by the master, and objected to the inquiry and requested that their objection appear upon the record. They did not question the accuracy of the statement. After this
7692 statement had been filed further services were rendered and a bill covering such services was filed with the master.

(Said statements, so filed, marked Exhibit: Touche-Niven Statement A and B respectively.)

Opportunity was given to the Wrigley Company to file a statement showing the amount paid out by it to accountants. Its attorneys took the position already stated that the question of the amount paid out to accountants by the parties was not a proper subject for inquiry by the master, but submitted a statement. The master, in view of their position and objection has not made use of the statement, but has returned it to the attorneys.

Burt & Company, another firm of accountants, were also employed by Larson Company and did certain work on Wrigley Company's books, but this work was done
(5054) pursuant to an arrangement by which Larson was re-
7692 quired to compensate the accountants for what was done, and it was expressly agreed that no claim should be made against the Wrigley Company on account thereof.

(5055) Counsel for the Wm. Wrigley Jr. Company during the proceeding before the master referred the master to certain evidence introduced and certain proceedings had on the trial before Judge Anderson (shown in the record filed in the court of appeals on the first appeal in this cause), as follows:

Proceedings had before Judge Anderson referred to before the Master.

(a) During the examination of J. A. Caulfield, a witness called on behalf of L. P. Larson Jr. Company, and who was Assistant Manager of R. J. Kittredge & Company, Mr. Aldrich asked the witness how many Wintermint gum labels had been included in the two orders that had been given to R. J. Kittredge & Company by the L. P.

Larson Jr. Company up to and including May and June, 1914, and the witness replied that he could not state exactly. Thereupon, Mr. Aldrich attempted to refresh the witness's recollection, and the following then occurred:

"The Court (Judge Anderson): Is the number material?

Mr. Aldrich: I don't think it is.

The Court: I don't either."

Deft. Ex. 14.

(b) Defendant's Exhibit 14 of 3/13/17 which was identified by L. P. Larson, Jr., while testifying before Judge Anderson on behalf of the defendants, is as follows:

"May 29th, 1914.

"Wm. Wrigley Jr. Company,
Zeno Manufacturing Company,
Chicago.
Gentlemen:—

"We understand you are about to manufacture and wrap chewing gum for a certain concern under labels, bearing brand or copy similar to our registered trade mark. Registered March 26th, 1912, Serial No. 58,239.

"We wish to warn you against same and attach herewith copy of labels.

"Very truly,
"L. P. LARSON JR. COMPANY,
"By L. P. LARSON *Pres.*"

(5056) Said Serial No. 58239 is a registration of the word "Peptomint".

Deft. Ex. 15.

(c) Defendant's Exhibit 15, identified by the same witness, being a letter dated June 2, 1914, and reading as follows:

"Messrs. L. P. Larson Jr. Company,
501 North LaSalle Street,
Chicago, Illinois.
Gentlemen:

"Replying to your letter of May 29, I beg to state that you failed to enclose the labels referred to, therefore we do not know whom you are referring to. Kindly send the labels, and oblige

"Respectfully yours,
WILLIAM WRIGLEY JR. COMPANY
"Per J. C. Cox."

(d) Defendant's Exhibit 16 of 1/13/17, reading as follows: Deft. Ex. 16.

"June 3, 1914,

"Messrs. Wm. Wrigley Jr. Co.,
5 No. Wabash Avenue,
Chicago, Ill.
Gentlemen:

"Acknowledging your favor of the 2nd inst., we regret the oversight in not enclosing labels in our letter of the 29th ult. and are attaching same to this correspondence.

Thanking you for your courtesy, we are

"Yours respectfully,
"L. P. LARSON JR. CO.
"By *Pres.*

"LPL-W"

(5057) (e) At the hearing before Judge Anderson, while Mr. Aldrich was cross-examining Mr. A. G. Cox as to whether he thought Larson's Wintermint gum could be palmed off for Wrigley's Doublemint gum, the following occurred:

"Mr. Aldrich: I will just close this branch of it, if the Court please, by Mr. Offield and I conceding that these two packages do bring confusion.

Mr. Offield: I don't concede anything at all.

The Court: That is for the purpose of your counterclaim.

Mr. Aldrich: Yes, sir. They have averred there is confusion, and we have admitted it in our answer.

The Court: Now, then, this sort of a case rests on the proposition that the defendant has so dressed up his goods as to deceive the public and make the public, when they come to buy the complainant's goods, take in place thereof, by mistake, the defendant's. That is the theory.

Mr. Aldrich: That is the theory of their case.

The Court: Surely that is the theory of this kind of a case.

Mr. Aldrich: Yes, sir.

The Court: So that when an ordinary intelligent person, If an ordinarily intelligent person uses chewing gum, wants the Wrigley Double Mint, and knows he has got sense enough to know what he wants, the ordinary customer goes into a place and asks for Wrigley's Double

Mint or Wrigley's Spearmint and he is liable to be deceived by being handed some of Larson's Wintermint.

Mr. Aldrich: That is the theory of their bill."

(5058) (f) The opening argument was made in said cause on March 12, 1917 before Judge Anderson by Mr. James R. Offield, as counsel for the Wm. Wrigley Jr. Company, and by Mr. Aldrich as counsel for the L. P. Larson Jr. Company. Said opening arguments were as follows:

"Mr. Offield: May it please the court: in these two
2 cases in Equity, 30,563 and 488, counsel for the respective parites have agreed, with the permission of the court, that the cases may be consolidated and the evidence taken apply to both cases so as to save the time of taking evidence in each case, they are very closely related.

In 30563 the complainant is William Wrigley, Jr. Company manufacturers of Chewing Gum, a West Virginia Corporation, the defendants are L. P. Larson, Jr. Company and L. P. Larson, Jr. the former being a corporation of the State of Illinois and the latter defendant is President.

In October 1911, the William Wrigley, Jr. Company filed its bill of complaint against the L. P. Larson Jr. Company for the infringement of its trade dress. A motion for a preliminary injunction was made on the 6th day of November, the hearing was on the eighth and Judge Carpenter granted the motion for a preliminary injunction. That is the package that was before the court. There is only one package left in complainant's original exhibit. There is the Wrigley box and the Wrigley package and this is the defendants' box and the defendants' package. (Handing articles to the court) after the granting of the preliminary injunction, the matter rested for a little over two years, and in 1914 the original counsel in the case withdrew and Mr. Charles H. Aldrich and Mr. Reed of Reed and Rogers, filed their
3 appearance as attorneys for the defendant.

Now, the bill of complaint in that case makes the usual allegation as to the parties, makes the allegation that the label of complainant's package, the word Spearmint, was first used by them, by William Wrigley, Jr. & Company, the predecessor of the present complainant in the year 1894. It makes the allegation that in the year 1906, an advertising campaign was started on Spearmint Gum and that up to about the time this suit was brought more than

ten millions of dollars had been expended in the advertising of the chewing gum products and largely advertising the Spearmint product of the William Wrigley Jr. Company.

(5059) Now, so much as to the first case, that gives your Honor a better review of the issues,—

The Court: This is the plaintiff's and this is the defendants' (indicating)?

Mr. Offield: That is the defendants'.

The Court: You claim this is an infringement of that?

Mr. Offield: Yes.

The Court: Now, Judge Carpenter so held?

Mr. Offield: Oh, yes, Judge Carpenter held on the preliminary motion,—issued the preliminary injunction on the similarity of the packages, and cartons granted an injunction on both. Mr. Clerk, isn't there a package of
4 Doublemint among those Exhibits in 488?

The Clerk: I have given you all the packages I have.

Mr. Offield: I don't see it. I have sent over for another package. I will have it here any moment.

Now, in equity suits number 488, the bill of complaint was filed in June, 1915. At that time, just shortly prior to the filing of the bill, there was called to the attention of the Wrigley Company a package of gum in form of carton and form of package (handing articles to the court). The bill was filed in June, 1915. In August of 1914 the complainant adopted a package very closely related to their spearmint package for the Doublemint gum, desiring to put out a peppermint flavored gum at that time, and in getting up that package they made practically a reversal of the colors of their spearmint package. I will have one of those Doublemint packages here in a moment. My Exhibit has gone from the Clerk's office, apparently. They put their Doublemint package out on the market in July 1914. In 1915 the Larson package came to the attention of the William Wrigley, Jr. Company, and after a discussion as to the appearance of that package, it was the opinion of one of the officers of the William Wrigley, Jr. Company that it was an unfair package, that it was a simulation of the Wrigley Spearmint Package that had previously been enjoined, and that
5 it was,—well, your Honor has a box of that, and it also was a simulation in a way, of the Doublemint package

which the Wrigley Company had placed upon the market in July of 1914.

(5060) The answer in that suit sets up that the Larson package, which we complained of in that bill of complaint, was on the market, of course, long subsequent to our Spearmint Package, but was prior to our Doublemint package upon the market. And they set up a counter claim in their answer that this being on the market prior to our Doublemint package, they alleged infringement of this package, by our Doublemint package.

The Court: What is this?

Mr. Offield: That is their package, you have a box of the Larson, that is the Wintermint. I have no package of the Doublemint for the moment. That is apparently lost, but I will have a fresh box of it.

So the issues in the two cases are largely the same. This question of the adoption and use of the Spearmint package enters into both cases, because it is alleged in the Bill of Complaint in both cases that there is an infringement of the Spearmint package, so the testimony that will be taken, as relates primarily to the first case only has the direct bearing upon the allegation of the bill in the second case. And the additional testimony of very short duration will be taken as to the Doublemint gum.

6 Now, a little history of what has been done in this field before this suit was brought: As I stated in 1906 William Wrigley, Jr. Company decided to advertise extensively their Spearmint product. They started in the latter part of that year with a great advertising campaign. As usual in every advertised products, they had not been upon the market only a short time, when there appeared in the New York Market, a package made by the Grove Company, of Salem, Ohio. Suit was brought in the United States District Court at New York, 2nd Circuit, and after a hearing before his Honor, Judge Hough, Judge Hough decided that the Grove package was a direct infringement of the Wrigley Spearmint package, and also decided by reason of the long use, that the Wrigley Company had made of the word Spearmint and the immense amount of money that had been spent in advertising, that there had sprung up a secondary meaning to that word. And Judge Hough held that they had the right to the word Spearmint in addition to the unfair appearance of the package; they had the right to the

word Spearmint as the predominating sign or mark upon the label of a package of chewing gum.

That case went to the court of appeals for the 2nd Circuit, and the Court of appeals reversed Judge Hough as to the Wrigley Company having the right to the word Spearmint, broadly as it applied to the face of the package, on the ground that it was a well known oil, oil
7 of the spearmint plant. It was purely descriptive and as such there could be no exclusive use.

(5061) When that suit was pending, it may have been shortly before that suit was brought, the Wrigley Company filed an application for the word Spearmint under the ten year Proviso of the Trademark Law, alleging the use of that word since 1893 or 1894 continuous use. That application was allowed and placed for publication in the Patent Office, and a notice of opposition was filed by one Duane Norris, of Chicago. Considerable testimony was taken in that opposition proceeding, and one Russell Hough testified that in the year 1896, I believe, for a very limited time, and upon a very small amount of chewing gum, he used the word Spearmint and produced a label with a hand holding a shaft with the word Spearmint upon that label. And in view of that disclosure, the Circuit Court of Appeals for the District of Columbia held with the Commissioner that the Opposition in the Duane Norris case should be sustained, so that the trade mark was never registered. But since that time we have gone through, as I say, the Salem, Ohio, case, the Grove Company, one of the oldest manufacturers in the United States of Chewing Gum. The case was very hard fought on both sides, a great many witnesses were examined and the Company was handicapped in their efforts to prove
8 the prior adoption of this package by someone else, and in view of all that testimony taken, as I say, the court of Appeals held that the Grove Package and their yellow package was an infringement of the Wrigley Package and carton. In connection with the suit, there was an affidavit filed showing the records of the Grove Case, and the character of the packages before the court.

Now, after that Grove decision there sprung up in the East, in Rochester, New York, a concern by the name of the Di-gesto Company. There were several companies there, the Compton Gum Company, the Adams Company, the Di-Gesto Company, the Continental Vending Sales

Company, and on tracing those companies to their source it was discovered there was one man, Frank Pulver behind all those different corporations or companies.

The Court: Named Pulver?

Mr. Offield: Frank Pulver. After shifting this situation down, we found that Pulver was at the bottom of the whole situation and suit was thereupon started against the Di-Gesto Company, Frank F. Pulver, Charles E. Blauvelt and a corporation known as the Continental Vending Company. Two suits were started in the District Court of New York. Those suits went so far as the taking of some testimony. The complainants in their prima facia case, the deefndants put in most of their
9 proof and before this Larson case, or after the decision in the Larson case on the injunction motion that Pulver case was settled. The Pulver Company and all these allied companies, two or three corporations and Pulver's
(5062) business as an individual and the Di-Gesto Company's business as a co-partnership of some character, were all purchased by the Wrigley Company. Pulver's proof attempted to show in that case that he was making a label somewhat similar to the Wrigley label prior to the Wrigley use.

The defense in this case largely rests on the theory that the purchase of the Pulver Company by the Wrigley Company acknowledges that the Wrigley Company were subsidiary in the field with this label to Pulver, and that having been in the field after Pulver, we came into this court and allege on sold adoption and that early use of this Spearmint label, after we spent our millions of dollars on it, and that coming in there and making those allegations after the purchase of the Pulver Company we are in this court with unclean hands.

My theory of the case is, of course, that the purchase of the Pulver Company has nothing to do with whether Pulver used this label before the Wrigley Company or after, it was a plain, straight, business proposition and the early adoption and use by the Pulver Company can-
10 not be established by that purchase or sale.

I have given you the facts fully, because I want your Honor to get the whole layout in the main case here, the first case. Now, I think I have stated the situation, fairly. The issues are very simple, and I will leave it now for my

adversary to make any corrections in any statements, I have made as to the general issue.

Mr. Aldrich: May it please the court: as has been stated, this first case was commenced in October, 1911, and Judge Carpenter gave a preliminary injunction in the case as deeded between the two packages. In 1914 we applied to the court, I came to the case at that time, associated with Mr. Reed, and we asked the court for leave to file an amended answer, which was granted to us, and also for leave to take testimony. And by the amended answer we set up that William Wrigley & Company were not the originators of the package upon which they brought their suit, but that they had copied that package as they had likewise copied the packages of every other successful gum that has been offered for sale by other gum manufacturers in the United States. We gave the instances in which they had done it, including the Pulver package, and we got leave to take testimony, and took testimony to sustain the issues upon that subject. And we shall submit to you as to that first case that it has been proven so clearly that there is no reasonable doubt that aside from the Spear which Wrigley regis-
11 tered as his trademark in April, 1905, he has never originated anything with reference to that package or any other.

(5063) Having put in that answer and taken some testimony upon that subject, being yet engaged in the taking of testimony, they brought these suits upon the Doublemint and against the Wintermint package, and in their bill they again repeated that history of the Spearmint package. That history as they have it in both bills, if the Court please, dates from 1894, as they say that they commenced to manufacture Spearmint gum in 1894. That is the averment of both bills. And they state in the second bill, namely, the Doublemint bill No. 488, that they designed a new package, this Doublemint package which is this package (handing package to the Court), in July, 1914; July 27th is the date of the earliest use or conception of that package. They say that in designing that package they desired to get up a package that was easily distinguishable from their Spearmint package and at the same time would indicate that it came from the same source, they put the doubleheaded spear on instead of one spear. And they say that the defendant, desiring

to filch the trade that they had in Doublemint, had subsequently to that time put out this Wintermint package which they say is an infringement of their package (handing a package to the court).

12 Now, if the Court please, the acts with reference to the Doublemint and the Wintermint packages are these: As I have stated, they gave their earliest use as July 27, 1914. In November and December, 1913, the Larson Company conceived and commenced the use of the Wintermint package. They had ordered some millions of labels during January and February of 1914, more than six months before the Doublemint package was conceived even as stated by the complaint in his bill; they had sold it in practically every state of the union prior to June 27, the date of their earliest conception; they had applied for registration on the 3d of February, 1914; it had been allowed in May, 1914, and the certificate of final registration had been made on June 24, 1914, six days before they had conceived the package, as they themselves stated.

In taking depositions to show that the Wrigley Company didn't come into court with clean hands, and to bring the case squarely within the decisions of the Supreme Court of the United States, as well as many decisions of the Circuit Court, we, in connection with the last case, filed an answer setting up these facts and also the counter-claim that they had never originated the Spearmint package and that they were, therefore, not entitled to come into a court of equity with clean hands, and we filed interrogatories directed to the proof of exist-

13 ence of the prior Pulver package. The fact was, they had taken their testimony in that case and it was ready for final hearing, and we asked them—that testimony

(5064) had been filed, if the Court please, and as this record will show as we adduce our proof had not been filed in the court as under the statutes of the United States it must be when it is taken, but it had been withheld by the parties and we asked them about what had become of the testimony, where it was, why it was not on file in the Federal courts, either at Buffalo, the Western District, or in the Southern District of New York, because this same suit had been brought in each district, although the testimony had been taken in the Southern District. We asked them when the Pulver settlement took place.

We asked them how much was paid, and so forth, and they made objections, as this record will show, to the answering of any of those questions, and Judge Carpenter compelled their answer. They answered a part of them and we had to apply to the Court for a further answer, and they were compelled, and they were finally required to produce the testimony that had been taken in the case pending in the Western and Southern District of New York. And it finally developed that they were compelled to produce the agreements of settlement, and it developed that they had paid the sum of $250,000 in settlement of the Pulver case. We shall contend, if
14 the Court please, both by the facts as to Pulver's prior use and also by the fact of that settlement and that payment and the provisions of the agreements with reference to Mr. Pulver not giving aid or abetting anybody that questioned the Wrigley prior use of this label, and so forth, that it is an admission that they are not the originators of the package upon which both of these suits are primarily founded.

The evidence will show, if the Court please, that Mr. Pulver commenced the manufacture of Spearmint gum, using the word Spearmint in 1889. He was then employed by the Elgin Watch Factory at Elgin, Illinois. For two years he continued to make gum in a small way while employed by that factory, until a day came when he was notified by his employers that he couldn't serve two masters, he either had to drop the gum business or drop out from the watch factory. He adhered to his gum business and removed to Troy, New York, and there he manufactured a package (showing articles to the Court) in every way the counterpart of that, except that it was Pulver instead of the Digesto there, and the color was the same as it is now, and the location of his business was indicated as it then was at Troy, New York. He left Elgin and went to Troy and there manufactured gum for a number of years, when he removed to Rochester, New York, and there, in 1901, ten years after his first manufacture in New York, he changed from the Pulver name
15 to the Digesto. He and his brother, Henry Pulver, were together in not only making and manufacturing gum but
(5065) also in selling a gum vending machine, and at this later date there was a division and Henry Pulver took the gum vending and Frank Pulver took this other busi-

ness, and he called it the Digesto Company from that time on. So that the fact that Pulver with that trade dress antedated the Wrigley trade dress will be met I think, and I want to state now, moderately, if the Court please, made so clear that there can be no room for doubt on that subject. If that be so, the decisions are abundant that the complainant is not entitled to recover, is not entitled to appeal to a court of equity at all. The Supreme Court has spoken upon that subject very recently in the 226 United States.

Now, back of all that, if the Court please, lies another fact that will be clearly established by our evidence in this case, and that is that William Wrigley did not commence the manufacture of Spearmint gum in 1892 or 1893 or 1894. And I find in our answer we say something about 1895, it is the stenographer's mistake, it should be 1905. He never made any Spearmint gum, as I think the evidence will show, until subsequent to 1900, six years later than by the terms of his bill he has invoked this case and in the Pulver case sought to establish.

16 The evidence will also show that he applied for this first registration, when included, in the papers as he presentd them in the office at Washington, both the Spear, as it appears on his package, and the word Spearmint. In that application he dated his first use up to the year 1900, if the Court please. The word Spearmint was rejected as descriptive and not a name that could be monopolized by anybody. Here was shown, as the evidence will show, just the Spear, without anything on it, just the spear head. Later in that same year 1907 a second thought, a later thought occurred to them, and they thought they could come in under the copyright act, or registration act by the ten year use, and so they applied for the word Spearmint in a separate application in August of that year, and they went back then to 1894 or 1892 in some of their testimony.

The manufacturer here by the name of Duane Norris intervened and made objections to that registration; the Commissioner rejected it, and the Court of Appeals in the District of Columbia affirmed such rejection.

So that we will have here, if the Court please, our evidence will be directed to three points. I shall seek to show that those packages are not infringing; secondly, that the complainant company did not originate this

dress, did not use it until subsequent to 1900; they made
(5066) an experimental bath in 1902. It was not a success,
17 it was a very small amount, and they discontinued making it until 1906, in the late autumn of 1906 they commenced an advertising campaign first in Buffalo, New York, then at Rochester, going down into the home of Pulver; and then they extended that. This was in Buffalo and Rochester in the beginning of 1907, and they extended it to Greater New York in November, 1907. And it will be shown here that the man who was installed as the Manager of the Wrigley Company's interests in Greater New York, and has continued to be the manager from that time to this, himself testified in this case that he had never heard of Wrigley's Spearmint Gum until 1907.

I have omitted to state one thing that will be, as we deem, material, and which will show that after they had purchased from Pulver and had thus become the owners of both sides of the litigation, they entered a decree, both in the Southern District of New York and in the Western District of New York, which made them the victors, and recited in the body of the decree that Mr. Pulver had paid them the damages arising out of his infringement. I do not need to comment in this court upon the effect of decrees entered when one side owns both sides of the litigation.

We will go further, if the Court please, with reference to our proof of the Wintermint package, where, as I have stated, the proof and the facts will show that we com-
18 menced in December to sell, 1913, had had our registration granted and allowed before their earliest date was conceived. We will show that prior to the time of their earliest date, June 27, 1914, it came to the knowledge of Mr. Larson, of the L. P. Larson, Jr. Company, that they were contemplating an infringement of his package, and that he addressed a letter to the William Wrigley, Jr., Company, warning them against so doing. That he was requested to furnish the registered labels against which his warning was directed, and that he furnished them with both the Peptomint and Wintermint labels, and that notwithstanding that they came out with this Doublemint label.

Now they say that our Wintermint label infringes their Doublemint label. It will take considerable casuistry to

say that if we are prior in point of time and have the prior rights, and to deny that their Doublemint label does not infringe our Wintermint label.

We have accepted their suggestion upon that subject and we therefore, if the Court please, deny that the complainant has any right to recover here on either one of these packages, or that he is in a position to appeal for the aid of a court of equity.

(5067) Mr. Offield: I just want to correct, or rather, state in my own way, your Honor, one or two points here that have arisen in Mr. Aldrich's statement.

19 In the first place, the testimony that was taken in that Pulver case didn't place the case in condition for final hearing. The prima facie case was taken on the part of the Wrigley Company, and even Mr. Pulver's case I do not believe was completely closed. The Wrigley Company had taken no rebuttal testimony whatsoever, to contradict hundreds and hundreds of errors in their testimony.

Secondly, the bill of complaint in the second suit here is not based solely on this question of the Doublemint package. If that were the fact there could have been no necessity even of mentioning the Spearmint package, in view of what this man Larson had done, in view of the fact that this Wintermint package had only been called to the attention of the Wrigley Company a few days before this bill of complaint was filed. That package was to be considered and was considered as an unfair package as to the Wrigley Spearmint and the Wrigley Doublemint, not that whether it was after the Doublemint or not. The bill charges alleged infringement of the Wrigley Spearmint or Doublemint. It is one of those unfair things where you skin in as close as you can between a man's rights,—skin in as close as he could to the Spearmint package.

Now we have the right, on the Spearmint package to the reversal of colors. One might conclude that the Court of Appeals for the Second Circuit had practically said it

20 included,—the label was a reversal of colors. Our only scheme in designing Doublemint package was to get a package that lay along parallel with the Spearmint package. You may see how the scheme was founded, it is doublemint, it is double strength, it is double spear, it is double wrapped; it has all the characteristics of the

Wrigley Spearmint packages except one, in the reversal of colors and the extra spear head. So that if your Honor will find a similarity between the Wintermint package and the two packages of the Wrigley Company, it is between the Spearmint and not between the Doublemint and the Wintermint.

Now as to Judge Carpenter compelling company to answer as to the testimony and as to the agreements in that other case: Their interrogatories asked for all original papers. I, of course, could furnish some, but I couldn't furnish others, and in the hearing on those interrogatories before Judge Carpenter, Judge Carpenter said, "Why let them have the copies, I think they are entitled to the copies in order that they may see whether
(5068) or not it is worth while to go east to take the testimony." In pursuance of that order I gave them copies of every scrap of testimony I had in the whole case, and every article of agreement as to the Pulver controversy I let them have everything, they have had the benefit of it for some weeks. No case has been presented from Mr. Aldrich's side on Mr. Pulver's testimony. The
21 answer to that is why let us see what Mr. Pulver says in his testimony, and not proceed with this case on the theory that Mr. Pulver said everything that Mr. Aldrich stated.

As to the registrations, Mr. Wrigley had never had any experience in registering trademarks. In 1907 when his first application was filed I remember very distinctly asking him when he has used the mark. The application says since 1900, and he says, "Oh, I don't know." I says, "Have you used it since 1900", 1900 being just as good a date as any other date as far as the purposes of the application were concerned. He said yes, so I put it 1900 in the application. Now the minute it was ascertained, and I knew what the facts were in this case, that second trade mark application was prepared, carrying this date back to 1894 for the exclusive use.

Now, as to the one last point, as to what they expect to prove as to Mr. Atwater. They say Wrigley's man was in New York and never heard of Spearmint until 1907. Wrigley's man was never down there at this time. Mr. Atwater, to whom they refer, was the local manager of the Zeno Company in 1907 and went into the gum business for the first time.

Now, with that statement, I think we are ready to proceed with the proofs.

Mr. Aldrich: If the Court please, I suggest perhaps there should be a formal order consolidating the two cases.

The Court: Yes, I should think so.

22 Mr. Offield: Do you want me to prove these boxes?

Mr. Aldrich: I think we will admit those boxes. I don't want to be technical about anything that is true.

Mr. Offield: The boxes of Larson's Peptomint, in 30563 are admitted."

(5069) (g) Upon the close of Mr. Offield's direct examination of his first witness, William Wrigley, Jr., Mr. Offield said (Vol. I, p. 35, Orig. Proceedings before Judge Anderson):

"Here is a box of the Doublemint gum, your Honor. It is a little different from the exhibit in the case. It was not a success at that time. The method of sealing the package in waxed paper has been dropped."

(5070) (h) While William Wrigley, Jr., President of the Wm. Wrigley Jr. Company, was a witness on behalf of his Company on the trial of said suit before Judge Anderson and while he was under cross-examination by Mr. Aldrich, he was shown a circular entitled "A Little History" which was attached to the amended answer filed in this cause by the L. P. Larson Jr. Company as an exhibit and which is attached to the brief filed in this suit in the Court of Appeals on August 2, 1917, by the L. P. Larson Jr. Company on the first appeal, and, in answer to Mr. Aldrich's questions, Mr. Wrigley said that said document contained a correct description of Wrigley Company's Juicy Fruit package and that he did not know the package of "California Fruit Chewing Gum" pictured on said document well; that so far as the witness could see said document contained a correct description of it; that the said document contained a correct copy of Wrigley's "Pepsin Chewing Gum" and also of "Beeman's Pepsin Chewing Gum" and that they are both foil wrapped packages and differ in outside counterband; that the "California Fruit Chewing Gum" was offered before Juicy Fruit and that "Beeman's Pepsin Chewing Gum" was offered before Wrigley's Pepsin Chewing Gum and that "there were a half dozen brands like this out at the same time. I do not know whether

Primley originated it (California Fruit Chewing Gum); in fact, I know he did not." Thereupon Mr. Aldrich said, "I do not want to go into side issues", and in answer to his further questions Mr. Wrigley said that said document, "A Little History", correctly shows "Wrig-
(5071) ley's Vassar Chewing Gum" at the present time but that originally it had only a rubber band around it which was abandoned when rubber bands became more expensive than paper; that that was four or five years ago, he could not tell exactly, and it was long before the Wrigley Company suit with Pulver; that White had put out his "White's Yucatan Chewing Gum" many years ago, from 1888; that said document, "A Little History", correctly shows one of six packages of "Wrigley's Sweet Sixteen Tulu" packages of square sticks of gum each wrapped separately; that before that time "Kis-me" gum had been put out in that shape and that "there were a large number of square packages out when we went into the gum business. The first six sizes represented trade dress for all chewing gum"; that the Wrigley Company also put out "Wrigley's Nips" (a candy coated gum) subsequently to "Fleer's Chiclets", but Fleer's were white while Wrigley's were red and black and yellow and said exhibit, "A Little History", does not show a true copy of "Wrigley's Nips"; that the Wrigley Company did not put out any of the color shown on said document, viz., pink, and that Fleer did not put out any pink colored but lead colored, and that previous to Fleer there was some little candy coated gum; that the witness didn't remember whether said document correctly shows "Pulver's Spearmint Pepsin Gum" and that the witness did not have it on his desk before the witness put out Spearmint and that he did not remember Oscar St. Louis sending it to the witness nor P. J. Cassidy sending it to him, nor any other discharged employee. (Vol. I of Proceedings before Judge Anderson, (pp. 53-58).

(5072) On Mr. Offield's redirect examination of Mr. Wrigley, Mr. Wrigley identified and Mr. Offield offered and there were received in evidence packages of the various gum brands pictured on said document, "A Little History" excepting "Pulver's Spearmint Pepsin Gum" and "Di-gesto Spearmint Pepsin Gum", and the following proceedings were then had before Judge Anderson:

93 Mr. Offield: "Q. There has been exhibited to you an advertising circular, published by the F. F. Pulver Company, or the Digesto Company, and afterwards republished by L. P. Larson, Jr. Company, entitled "A Little History", showing the various brands of chewing gum as upon the market before your various brands, and I will ask you to state whether or not you or the William
94 Wrigley, Jr. Company was ever sued or ever threatened with suit by any other gum manufacturer for the alleged infringement of any labels, trade-mark rights, or unfair competition, by reason of any package which appears upon that circular as having been manufactured by you or any of the companies with which you have been connected?

Mr. Aldrich: To which I object, if the court please, as being immaterial.

The Court: Objection sustained."

(5073) On said redirect examination of Mr. Wrigley by Mr. Offield, the following occurred:

"Q. Now, in this so-called second suit the bill charges an infringement by the defendant of the Spearmint and the Double Mint packages. As between those three packages, the Spearmint, the Doublemint and the Wintermint package, in your opinion, is the Wintermint package closer in its appearance to the Spearmint or to the Double Mint?

"Mr. Aldrich: To that I object, if the Court please, because I think an analysis of the bill will show that there is no charge that it interferes or in any way infringes the Spearmint package.

"Mr. Offield: I think an analysis will show exactly that, your Honor. That is the theory upon which this bill was drawn.

"Mr. Aldrich: I object to it on that ground, and I don't think there is any charge of that kind."

(5074) (i) The following proceedings were had on the trial before Judge Anderson while Frank F. Pulver, who was called as a witness on behalf of L. P. Larson Jr. Company, was under direct examination by Mr. Aldrich (Vol. I Proceedings before Judge Anderson, pp. 213, 214):

213 "Q. You may state whether or not there has been any agreement between you and the Wm. Wrigley Jr. Com-

pany, or any person representing it, that the amount paid you in December, 1913, should be kept secret or not disclosed?

214 A. Mr. Offield promised me that he would not tell.

Q. You may state whether or not he requested you at any time not to tell?

A. I do not remember any such request."

(5075) (j) The record of the trial before Judge Anderson shows that all the contracts entered into between Wm. Wrigley Jr. Company and Frank F. Pulver were introduced in evidence on the trial before Judge Anderson and that they are as follows (Vol. I Proceedings before Judge Anderson, pp. 244-263:

244 Exhibit 10

"This Agreement, made and entered into this 19th day of December, 1913, by and between Wm. Wrigley, Jr. Company, a corporation of the state of West Virginia, party of the first part, Frank F. Pulver, of Rochester, New York, party of the second part, and James R. Offield, of Chicago, Illinois, party of the third part, Witnesseth:

Whereas, a certain agreement has been entered into between Wm. Wrigley, Jr. Company as party of the first part and Frank F. Pulver as party of the second part and various corporations with which said Frank F. Pulver is allied as other parties thereto, said agreement being executed on even date herewith, and

Whereas, James R. Offield has entered in a certain agreement wherein he is the first party and Frank F. Pulver is the second party thereto, various corporations with which said Frank F. Pulver is connected being other parties to said agreement and executed upon even date herewith, and

Whereas, certain sums of money are to be paid the said Frank F. Pulver as provided for in Paragraph 4th of the agreement between the said James R. Offield and Frank F. Pulver and others; and

Whereas, it is mutually desired between the parties to have it specifically defined as to what may or may not constitute a breach of some of the clauses provided in

245 both of said agreements;

Now, Therefore, in consideration of the sum of One Dollar ($1.) moving between the parties hereto, and other good and valuable considerations, as expressed by and in the agreements herein referred to, the parties hereto have agreed as follows:—

(5076) 1st: The party Frank F. Pulver agrees that if on or prior to January 1st, 1919, there are any outstanding debts against The Continental Vending Co., B. G. Adams Co., and Compton Gum Co., for contracts or obligations assumed or entered into by said corporation or any of them and enforceable against the holders of the stock of said corporations, subsequent to the execution of this agreement, that the said note due and payable on the 1st day of January, 1919, may be withheld from payment thereon until the obligation is paid by the said Frank F. Pulver, or release therefrom obtained, or the amount of the obligation may be deducted from and offset said notes.

2nd: The party of the second part agrees that in the event he should violate any of the provisions of the ninth paragraph of the Articles of Agreement entered into between Wm. Wrigley Jr. Company and Frank F. Pulver as the second party thereto, that the said Wm. Wrigley, Jr. Company may withhold the payment of any notes that may be then due the said Frank F. Pulver and said
246 Wm. Wrigley, Jr. Company shall have the right to bring such suit or suits as it may deem desirable for the full protection of its rights, as provided for in said agreement, of which Paragraph 9 forms a part.

3rd: It is mutually understood and agreed between the parties that in the event the notes as provided for and given in the contract between the said James R. Offield and Frank F. Pulver, are in default upon the date due, or any of said dates, and that unless said notes, or any of them are paid within thirty (30) days after notice and demand for the payment thereof, then the said Frank F. Pulver may again engage in the manufacture and sale of chewing-gum and his rights to the form of trade-dress for the marketing of chewing gum as evidenced by "Exhibit B", shall be equal and co-extensive with the rights of Wm. Wrigley, Jr. Company, in that both Wm. Wrigley, Jr. Company and Frank F. Pulver may place upon the market chewing gum wrapped in the manner of "Exhibits "A" and "B", respectively.

In Witness Whereof, the party of the first part has caused this agreement to be signed by its President and its corporate seal affixed hereto, and the second and third parties have signed the same and affixed their seals on this ..... date of December, 1913.

247 WM. WRIGLEY, JR. COMPANY,
By .....
President
..... (SEAL)
..... (SEAL)

Signed at Rochester, N. Y., this ..... day of December, 1913, in the presence of:

.....
.....

(5077) EXHIBIT 11. Exhibit 11.

248 Articles of Agreement.

Whereas, Wm. Wrigley, Jr. Company, a corporation organized and existing under and by virtue of the laws of the State of West Virginia, is the alleged owner of certain trademarks, trade rights and trade-dress relating to Spearmint Gum as manufactured by it, a box of Wm. Wrigley, Jr. Company's Spearmint Chewing Gum being hereto attached, marked "Exhibit A" and made a part hereof, and

Whereas, various suits are pending relative to the trade-mark, tradename and trade dress rights and on account of unfair competition, wherein Wm. Wrigley, Jr. Company is complainant; and

Whereas, Frank F. Pulver, of the City of Rochester, State of New York, is the manufacturer of a chewing gum that is alleged to be so wrapped and the labels thereof so marked as to infringe the trade-mark, tradename and trade rights of Wm. Wrigley, Jr. Company; and

Whereas, Frank F. Pulver has done business under his own and the assumed name of Di-Gesto Company; and

Whereas, Frank F. Pulver is also an officer of The Continental Vending Company, a corporation organized under the laws of the State of New York, and which is

now using the assumed name of Di-Gesto Company; and
249 Whereas, Frank F. Pulver is also an officer of B. G. Adams Co., a corporation organized under the laws of the State of New York, and formerly a co-partnership consisting of B. G. Adams and F. F. Pulver, doing business under the firm name and style of B. G. Adams Co.; and

Whereas, Compton Gum Co. is a corporation organized under the laws of the State of New York and Frank F. Pulver is an officer thereof; and

Whereas, Frank F. Pulver, Di-Gesto Co., The Continental Vending Co., B. G. Adams Co. and Compton Gum Co., are all placing upon the market chewing gum alleged to be so wrapped as to infringe the trade-marks, tradenames, and trade rights of Wm. Wrigley, Jr. Company; and

Whereas, Henry H. Pulver was at one time associated with Frank F. Pulver in the manufacture and sale of chewing gum alleged to have been so marked and wrapped as to infringe the trade-marks, tradenames and trade rights of Wm. Wrigley, Jr. Company; and

Whereas, it is desired to terminate the litigation above referred to and adjust and settle the differences of all parties concerned;

Now, Therefore, in consideration of the sum of One Dollars ($1.), by each of the parties to each of the other parties hereto in hand paid, and for other good and valuable considerations, it is hereby contracted and agreed
(5078) by and between said Wm. Wrigley, Jr. Company, a
250 West Virginia corporation, party of the first part, Frank F. Pulver, an individual, party of the second part, Di-Gesto Company, an assumed business name employed by Frank F. Pulver, party of the third part, and The Continental Vending Co., Henry H. Pulver, an individual, party of the fourth part, The Continental Vending Co., a New York Corporation and the stockholders thereof, each individually, namely, ...
....., party of the fifth part, B. G. Adams Co., a New York corporation and the stockholders thereof, each individually namely, ...
....., party of the sixth part, and Compton Gum Co., a New York corporation and the stockholders thereof, each individually namely, ...

..... party of the seventh part as follows, to-wit:

1st: The Second party, Frank F. Pulver, does hereby sell, assign, transfer and set over unto the party of the first part all his right, title and interest in the trademark, tradename and trade-dress of whatsoever kind and nature that he may have as appears upon the labels and the manner of wrapping the chewing-gum identified by the box of chewing gum hereto attached marked "Exhibit B", said second party representing to the first party and as a part of the consideration moving between the said first and second parties, that the second party has used substantially the same form of label, both as to design, color scheme, wording and markings, since the year
251 1891 and continuously therefrom to date and the said second party further representing and assuring the first party that no other person, firm, association or corporation has acquired any rights whatsoever in the tradenames, trade-marks and trade-dress identified by "Exhibit B", with the possible exceptions of the other parties to this agreement, and that as to such other parties no rights have been acquired by any or all of them unless it be by the association of the second party with Henry H. Pulver, and said second party agrees that any or all rights that may have been acquired by said Henry H. Pulver are now the property of the second party and are herein sold, assigned, transferred and set over unto the first party.

2nd: The party of the fourth part, Henry H. Pulver, does hereby sell, assign, transfer and set over unto the party of the first part any and all rights which he may have acquired by virtue of his former relations with Frank F. Pulver in the tradenames, trade-marks or trade-dress identified by "Exhibit B."

3rd: The party of the third part, Di-Gesto Company, by Frank F. Pulver, does hereby sell, assign, transfer and set over unto the party of the first part any and all rights which it may have acquired by virtue of its former relations with Frank F. Pulver in the tradenames, trademarks or trade-dress identified by "Exhibit B".

4th: The party of the fifth part, the Continental Vend-
(5079) ing Co., a corporation duly organized under the laws
252 of the State of New York, does hereby sell, assign, trans-

fer and set over unto the first party all of the rights which it now owns or may have acquired in the tradenames, trademarks and trade-dress identified in "Exhibit B".

5th: The party of the sixth part, B. G. Adams Co., a corporation duly organized under the laws of the State of New York, does hereby sell, assign, transfer and set over unto the first party all of the rights which it now owns or may have acquired in the tradenames, trademarks and trade-dress identified in "Exhibit B", and "Exhibit C".

6th: The party of the seventh part, Compton Gum Co., a corporation duly organized under the laws of the State of New York, does hereby sell, assign, transfer and set over unto the first party all of the rights which it now owns or may have acquired in the Tradenames, Trademarks and trade-dress identified by "Exhibit B" and "Exhibit D".

7th: The second, third, fourth, fifth, sixth and seventh parties agree and consent, so far as they are concerned, that decrees may be entered as prayed for by Wm. Wrigley, Jr. Company in the case of *Wm. Wrigley, Jr. Company* v. *Di-Gesto Company and Frank F. Pulver,* now pending in the United States District Court for the Southern District of New York, and in the case of *Wm. Wrigley, Jr. Company* v. *The Continental Vending Co.*
253 *and Frank F. Pulver,* now pending in the United States District Court for the Western District of New York, the said Wm. Wrigley, Jr. Company waiving all claims for costs, profits and damages in said suits and said decrees to be entered at the cost of the said Wm. Wrigley, Jr. Company, and said Decrees to recite that all demands of the said complainant are satisfied and paid, and the said decrees are to be without costs, taxable or otherwise, to any of the parties.

8th: The Second, third, fourth, fifth, sixth and seventh parties do agree to and with the first party that they will not at any time hereafter contest the claims of the party of the first part that the word "Spearmint" is a good and valid tradename or mark and that they will respect each and every right of the said first party thereto as well as the rights of the first party to its trade-dress as evidenced by "Exhibit A", and that they and each of

them will not manufacture or sell a chewing-gum of any flavor in a trade-dress like the trade-dress of Exhibits, "A", "B", "C", or "D", or in any such near resemblance thereto as would lead the ordinary purchaser to believe that the product as so manufactured by them, or either of them, is the product of the first party.

9th: The party of the second part agrees that he will not manufacture or sell any chewing-gum or substitute therefor within the United States, or any territory there-
254 of, or the possessions thereof, or in the Dominion of Canada, for a period of twenty-five years (25) from the date of this agreement, and will not directly or indirectly
(5080) acquire any interest in, or ally himself with, or form any business connection with any person or persons, or corporation or combination of persons, which shall be engaged in the chewing-gum business in any form, directly or indirectly in any State or country in which the party of the first part at this time or at any time during the life of this contract holds trade-marks or trade-rights relative to chewing-gum.

10th: The party of the first part agrees to dismiss the suit now pending in the United States District Court for the Northern District of Illinois, Eastern Division, in which Wm. Wrigley, Jr. Company is the complainant and F. W. Woolworth Company is the defendant, and at the complainant's cost, and the party of the first part further agrees that no suit or suits for infringement of any of the first party's trade-marks, tradenames or trade rights shall be brought against any of the customers of any of the parties to this agreement for the infringement of the first party's rights by reason of the sale of chewing-gum manufactured by the second, third, fourth, fifth, sixth or seventh parties and sold by said parties prior to the date of the execution of this agreement.

255 11th: The second, third, fourth, fifth, sixth and seventh parties do hereby sell, assign, transfer and set over unto the first party the good will and business allied with the trade-marks, tradenames and trade rights or dress herein conveyed by each party.

In Witness Whereof, the parties hereto, at the cities of Chicago, Illinois, and Rochester, New York, have hereunto set their hands and seals on the days of December, 1913, said corporations, by their duly authorized officers, who act under the direction, consent and

authority of the Board of Directors thereof, who have duly authorized them as such officers so to act and bind said corporations, have caused these presents to be signed by their officers and their corporate seals to be hereunto affixed.

WM. WRIGLEY, JR. COMPANY,
By.....
..... (Seal)

Signed by Frank F. Pulver Party of the Second Part, and Henry H. Pulver this ..... day of December, 1913, in the presence of:

.....

.....

DI-GESTO COMPANY,
By.....
..... (Seal)
Party of the Fourth Part.

THE CONTINENTAL VENDING CO.,
By.....

(5081) B. G. ADAMS CO.,
256

By.....

COMPTON GUM CO.,
By.....

Exhibit 12. 257

EXHIBIT 12.

Articles of Agreement.

Whereas, James R. Offield, of the City of Chicago, County of Cook and State of Illinois, is desirous of acquiring the properties and rights hereinafter more fully set forth, and

Whereas, The Continental Vending Company, a corporation organized under the laws of the State of New York, is the owner of certain property and engaged in the manufacture, of chewing-gum, in the City of Rochester, New York, and

Whereas, B. G. Adams Co., a corporation organized and existing under and by virtue of the laws of the State

of New York, is the owner of certain property and engaged in the manufacture of chewing-gum in the City of Rochester, New York; and

Whereas, Compton Gum Co., a corporation organized and existing under and by virtue of the laws of the State of New York, is the owner of certain property and engaged in the manufacture of chewing-gum in the City of Rochester, New York; and

Whereas, Di-Gesto Company, an assumed name adopted by Frank F. Pulver of Rochester, New York, and The Continental Vending Co., is the owners of certain property and engaged in the manufacture of chew-
258 ing-gum in the City of Rochester, New York; and

Whereas, Frank F. Pulver, of Rochester, New York, is an officer of and stockholder in the aforenamed corporations, The Continental Vending Company, B. G. Adams Co., and Compton Gum Co., and has been actively engaged in the manufacture of chewing-gum for a long period of years; and

Whereas, it is desired by the parties hereto, to-wit: The Continental Vending Co., B. G. Adams Co., Compton Gum Co. and Di-Gesto Co., and Frank F. Pulver, to sell their respective properties and rights, except such properties as are hereinafter reserved by them;

(5082) "Now, Therefore, in consideration of the sum of
258 One Dollar ($1.) by each of the parties hereto to each of the other parties hereto in hand paid, and for other good and valuable considerations, it is hereby constracted and agreed by and between James R. Offield, party of the first part, The Continental Vending Company, party of the second part, B. G. Adams Co., party of the third part, Compton Gum Co., party of the fourth part, and Di-Gesto Company, party of the fifth part and Frank F. Pulver, party of the sixth part, and the stockholders thereof and individuals thereof, as follows, to-wit:

1st. The said first party agrees to pay to the order of Frank F. Pulver, the owner or having the control of
259 all the stock in the above named corporations, par—on the completion of the inventory of said transfer of the property of the Continental Vending Co., B. G. Adams Co., and Compton Gum Company, including trade-marks and secret processes or formulas owned by any of said

second, third or fourth parties, or by said sixth party, Frank F. Pulver, and said sixth party agrees to transfer the properties of Di-Gesto Company to the first party; the property to be so transferred by the second, third, fourth and fifth parties to the first party being more particularly identified and set forth in the inventory hereto attached and marked "Exhibit A".

The said first party shall have possession of the premises and plants occupied by the second, third, fourth and fifth parties, for the purpose of removing the properties conveyed herein, upon the date of the execution of this agreement and shall pay such rent as the party or parties hereto are now obligated by lease to pay from the time possession is given to the 1st day of January, 1914.

2nd:—The said Frank F. Pulver agrees to pay all of the bills payable now due, or to become due, on the liabilities and obligations already incurred or contracted for by the said second, third, fourth and fifth parties, and the said Frank F. Pulver will hold harmless, protect, reimburse and indemnify the said first party from any
260 and every loss, cost, expense, or damage on account of any contract heretofore made, or any liability of any kind by or in the name of said second, third, fourth, fifth or sixth parties, or any of them.

(5083) 3rd:—The said second, third, fourth, fifth and sixth
260 parties agree to transfer, by proper legal assignments, duly executed, all of their rights, title and interest in and to any and all trade-marks or trade names owned by them, including the trade name or mark "Di-Gesto", together with the good-will and the business with which said trade-marks have been used and to deliver all testimony, legal documents and exhibits used or pertaining to any suits now pending against said parties, or any of them, to the said party of the first part, and hereby make such transfer and agree to execute independent assignments of each and all such rights, trade-marks and goodwill for the purpose of recording the same and making them a public record.

4th:—The party of the first part agrees to pay to Frank F. Pulver, personally and as representing the parties of the second, third, fourth and fifth part, the sum of ..... Thousand Dollars ($.....), to be paid in five equal installments upon the first days of January, 1915, 1916, 1917, 1918 and 1919, and that

261 the considerations so to be paid Frank F. Pulver in five equal installments, shall consist of five notes given the said Frank F. Pulver due upon the respective dates that the said installments are due, said notes to be signed by Wm. Wrigley, Jr. Company, Wm. Wrigley, Jr. and A. G. Cox.

5th:—The parties hereto, their successors and assigns and legal representatives, guarantee, covenant and agree that all property and rights transferred by each to any of the others is free from any and all incumbrances, and that each party making such transfer has the right to transfer and sell the same, and each of said parties guarantee that it has the title to said property and rights so transferred and that each of said vendors will defend such title and hold the vendee harmless as to any claims against such property or rights, and that the successors, assigns and legal representatives of the parties hereto shall be bound by this agreement.

6th:—The said Frank F. Pulver will assign and endorse to the party of the first part a sufficient amount of stock in the Continental Vending Company, B. G. Adams Co. and Compton Gum Co. to place the first party in control of fifty-one per cent (51%) of the stock of each of said corporations and that said first party may sell and assign said stock as he may desire.

(5084) 7th: Said Frank F. Pulver agrees that at any time
261 hereafter during the duration of this contract he will aid
262 and assist the party of the first part in defending his properties and rights and the properties and rights of the second, third, fourth and fifth parties, owned by said parties prior to the execution of this agreement and herein transferred, and without cost to the first party, except as to traveling expenses or loss that the said Frank F. Pulver may be put to other than his time.

8th: Said Frank F. Pulver agrees that on or before the 1st day of January, 1919, upon demand he will cause to be transferred or assigned to the first party all the outstanding stock of the corporations herein named and parties hereto and without further consideration.

9th: The first party herein releases any cause or causes or action that said first party, or his assigns, may have upon the acquirement of stock in said corporations by the first party for acts done by said corporations, or by said Frank F. Pulver, prior to the acquirement of the

stock in said corporations by said first party, as hereinbefore stated, by reason of the said Frank F. Pulver being a director, stockholder, officer or employe of said corporations, or any of them.

In Witness Whereof, the parties hereto at the City of Rochester, State of New York, have hereunto set their hands and seals this 19th day of December, 1913, said
263 corporations by their duly authorized officers who act under the direction, consent and authority of the Board of Directors thereof, who have duly authorized them as such officers so to act and bind said corporations, have caused these presents to be signed by their officers and their corporate seals to be hereunto affixed.

..... (Seal)

THE CONTINENTAL VENDING COMPANY,

By.....

B. G. ADAMS CO.,

By.....

COMPTON GUM CO.,

By.....

(5085) DI-GESTO COMPANY,

By.....

263

..... (Seal)

In the presence of:

.....

.....

(5086) (k) There was also offered and received in evidence on the trial before Judge Anderson a copy of the final decree entered in the litigation between Wm. Wrigley Jr. Company and Frank F. Pulver in the United States District Court for the Southern District of New York in favor of the Wm. Wrigley Jr. Company and against Di-gesto Company and Frank F. Pulver. Said decree is as follows (Vol. I, Proceedings before Judge Anderson, pp. 264-266):

264 "EXHIBIT 13. Exhibit 13.

IN THE UNITED STATES DISTRICT COURT

Southern District of New York

Wm. Wrigley, Jr. Company, a Corporation of the State of West Virginia,
Complainant,
vs.
Di-Gesto Company and Frank F. Pulver,
Defendants.

FINAL DECREE.

This cause came on to be heard on the motion of complainant by James R. Offield, solicitor for complainant, to enter a decree herein and it appearing to the Court that the complainant filed the Bill of Complaint on the 19th day of December, 1910; that the defendants were duly served with process; that the defendants caused their appearance to be entered in this suit and that the parties have consented to the entry of a Final Decree herein; thereupon in consideration of the premises and the Court being fully advised,

It Is Ordered, Adjudged and Decreed

(5087) 1st: That the defendant has infringed upon and violated the rights of the complainant by imitating and simulating the packages and cartons of the Spearmint
265 Chewing-gum of the complainant as to sizes, form and color in collocation with symbols and arrangement of printed matter employed by complainant upon its packages and cartons.

2nd. That the packages of complainant, consisting of five sticks of gum individually wrapped with an eclosing wrapped and printed matter thereon and the component parts thereof and the collocation and arrangement shown by "Complainant's Exhibit Complainant's Spearmint Product" and with the word "Spearmint" in prominent type with a rectangular border, are the equitable property, wrapper, carton and label arrangement of the com-

plainant herein in connection with the manufacture and sale of chewing gum.

3rd: That the defendants have infringed upon and violated the rights of the complainant by imitating and simulating complainant's trade-mark consisting of the representation of a spear with the word "Spearmint" thereon displayed prominently by the use of a rectangular border within which is arranged the word "Spearmint" displayed in prominent type.

4th: That the defendants, Di-Gesto Company and Frank F. Pulver, their officers, agents, representatives, servants, attorneys and employes and each of them, be and are hereby perpetually enjoined from imitating and simulating said packages and cartons of chewing-gum of the complainant as to size, form and color in collocation
266 with symbols and arrangement of printed matter employed by the complainant upon its packages and cartons and from imitating or simulating said packages and cartons of the complainant or the said trade-mark property of the complainant, in any manner calculated to induce the public to believe that the Spearmint Gum or other chewing gum or product of the defendant's is complainant's product.

And it appearing to the court that the parties have agreed upon the damages and profits and the defendant had paid the same to the complainant, and that the complainant has waived an accounting herein, this decree is made final, each party to pay its own costs.

.....

Judge.

We hereby consent to the entry of the foregoing decree:

.....

By.....

Solicitor for Complainant.

(5088)
266

.....

By.....

Solicitor and of Counsel for Frank F. Pulver and Di-Gesto Company.

Approved:

GEORGE F. HIXSON."

(5089) (l) There was also offered in evidence by Mr. Aldrich on the trial of said case before Judge Anderson a copy of the trade-mark registration by L. P. Larson Jr. Company of its Wintermint label (Vol. II, Proceedings before Judge Anderson, pp. 427-452), said registration was on July 21, 1914 as No. 98540 for its Wintermint label for chewing gum. Said certificate shows that L. P. Larson Jr. Company of Chicago, an Illinois corporation, did on February 3, 1914, file in the United States Patent office an application for registration of said word "Wintermint" as a trade-mark for chewing gum and that the said mark was duly registered in the United States Patent Office on July 21, 1914; that the statement accompanying said application was filed February 3, 1914, and was signed "L. P. Larson Jr. Co. by Louis P. Larson, Jr., President" and says that "this trade-mark has been continuously used by the said corporation since the 30th day of December, A. D. 1913"; the declaration accompanying said statement and application was sworn to by Louis P. Larson, Jr. on January 31, 1914, who deposed that he is president of said L. P. Larson Jr. Company; "that he verily believes that the foregoing statement is true" and he further deposed "that such trade-mark is used by the said corporation in commerce among the several states of the United States".

(5090) (m) And it also appeared during the trial before Judge Anderson that Mr. Offield stated that he would like to substitute a complete box of Wrigley's gum "similar in all respects to the exhibit originally filed in the case, but from which all the packages of gum have disappeared except one". (Vol. II, Orig. Proceedings before Judge Anderson, p. 570).

(5091) (n) L. P. LARSON, JR., President of said L. P. Larson Jr. Company, was called as a witness on behalf of said Company on the trial before Judge Anderson, and on his direct examination by Mr. Aldrich, testified:

"When I came to adopt our Wintermint package I went over to R. J. Kittredge's (the printer's) office and told him that I wanted to get out a new package and wanted to get it out so different there couldn't be any confusion on the market, that there wouldn't be anybody bringing a lawsuit.

Mr. Aldrich: I want to show that Mr. Kittredge advised Mr. Larson at this interview that there was going to be by the Wrigley Company an infringement of his package, and that led to this correspondence of May, 1914.

The Court: That is immaterial.

Mr. Aldrich then said that he would accept the court's suggestion and drop that line entirely.

The witness then said:

"At the time I adopted the Wintermint package I personally believed it to be a new and original package on account of the green inside wrappers which Mr. Kittredge told me nobody else had used. That was in December, 1913."

The witness then was asked by Mr. Aldrich and testified as follows:

(5092) "Q. What distribution had been made of Winter-
577 mint products prior to July, 1914?

Mr. Offield: I object, your Honor, as entirely immaterial.

The Court: What is the relevancy of it?

Mr. Aldrich: It is relevant in this way, I want to show that it had become an article of commerce.

The Court: You want to show that he had a large business that he was trying to protect; is that it?

Mr. Aldrich: That is one purpose, yes, if the Court please.

The Court: Go ahead.

Mr. Aldrich: And I have other purposes also.

A. We had a large business.

Mr. Aldrich: Q. How general was the distribution? I want to know, state it in the briefest, shortest manner.

A. We had a general distribution over the United
(5093) States in almost every state in the Union.

The Court: Which is this, Wintermint?

578 A. Wintermint.

Mr. Aldrich: The Wintermint package; yes, sir.

Q. And this was prior to July, 1914?

A. Yes, sir.

Q. You were selling it also in Chicago, were you not?

A. Yes, sir; we had city salesmen, people selling all through Chicago here, and ever since."

(5094) And when Mr. Larson was then cross-examined by Mr. Offield the following proceedings were had:

580 "Q. Did the Larson Company ever spend any money in advertsiing its Wintermint gum, in publicity work?

A. Yes sir.

Q. About how much in 1914, we will say?

Mr. Aldrich: I object, if the Court please.

Mr. Offiels: If the distribution of that gum is an important factor here and the amount of sales he had of it, I would like to know how he got those sales for it.

The Court: The mere fact that you would like to know it doesn't make it material.

Mr. Offield: I know it doesn't, but it has some bearing, I think.

The Court: No, I don't think so.

581 Mr. Offield: In the reason of the sale of the gum, if they have had distribution there is a reason for it.

The Court: No.

Mr. Offield: I am trying to find out the points of distribution.

The Court: It doesn't make any difference about its methods or advertising, I don't think it is material."

(5095) (o) After all the evidence had been introduced on the trial of said cause before Judge Anderson, and after the court had announced that he was going to dismiss both of the bills of complaint filed by the Wm. Wrigley Jr. Company, and also the counterclaim filed by the L. P. Larson Jr. Company, the following took place:

"Mr. Reed: On that point, your Honor, we have simply this to say, there is no evidence of confusion. The bill was based on the sworn allegation that those two packages would confuse.

The Court: Yes. The Court cannot protect a man who will buy Wintermint for Spearmint when it is written in plain English on each of them.

Mr. Reed: Not Spearmint, Your Honor, Doublemint.

The Court: Doublemint, I mean. I have not time to do that."

(Vol. II Stenographic Copy of Proceedings bef. Judge Anderson).

(5096) (p) The original answer filed November 6, 1911 by L. P. Larson Jr. Company and L. P. Larson Jr.

(q) The amended answer filed by them on April 18, 1914 in the suit instituted against them on October 27, 1911 in this court by the Wm. Wrigley Jr. Company as No. 30563.

(r) The notice served on Messrs. Offield, Towle, Graves and Offield, solicitors for said Wm. Wrigley Jr. Company, by Messrs. Aldrich and Aldrich and Reed and Rogers, as solicitors for said L. P. Larson Jr. Company and L. P. Larson Jr., that they would ask to be substituted as such solicitors for said defendants, and for leave to file an amended answer in said last described action, leaving the original answer on file, and for leave to take the testimony of certain designated witnesses.

(s) The affidavit of Louis P. Larson, Jr. filed April 18, 1914 in said suit, #30563, which affidavit is referred to in said notice of motion.

(5097) (t) The testimony of WM. WRIGLEY JR., a witness called on behalf of the Wm. Wrigley Jr. Company, on direct examination, as follows:

"My name is Wm. Wrigley Jr. I am a manufacturer of chewing gum. I have been in the chewing gum business since 1892. I first started business at 157 East Kinzie Street in 1891. This was the soap business which I continued only for a few months. Then I went into the chewing gum business. The chewing gum sold by me was made by the Rubber Paint Company.

We conceived the Spearmint brand and first put a brand of Spearmint gum on the market in the beginning of 1894. The label appearance of the package of Spearmint gum at that time is very similar to the one that is used today.

The package marked Complainant's Exhibit 1 is a package of chewing gum that, both as to label and manner of wrapping the five sticks of gum, was used by the Wm. Wrigley Jr. Company in the year 1893.

The sales of Spearmint were at first very small as it was not advertised. The sale of Spearmint increased after 1896 and this increase was gradual every year. The sale was general throughout the country between 1892 and 1896, but our territory at that time was not very large. No big effort was made to push the sale of Spearmint gum prior to the advertising campaign in 1906."

The testimony of WILLIAM SCATCHARD, a witness called on behalf of the Wm. Wrigley Jr. Company, on direct examination, as follows:

"I was manager of the Philadelphia branch of the Wm. Wrigley Jr. Company. I came to Chicago originally in 1891 and stayed with him in partnership until 1898, when I sold out to him, and I started in with him again in 1906.

We commenced to manufacture Spearmint in 1893 or 1894. I am not sure of the exact date, but it is one of
(5098) these two years. In the year 1893 or 1894 the Wm. Wrigley Jr. Company had a chewing gum product on the market which bore a label and was wrapped in the manner as shown by Complainant's Exhibit 1. I am able to identify this package at that time because in 1894 I went to Philadelphia to settle permanently and I know we were selling that Spearmint package before I went to Philadelphia and had been for at least a year.

Throughout the period between the years 1894 and 1898, while I was a co-partner in the firm of Wm. Wrigley Jr. & Company, that company was selling chewing gum, to my knowledge, having a label and wrapped in the manner as identified by Complainant's Exhibit No. 1."

The testimony of A. G. COX, a witness called on behalf of the Wm. Wrigley Jr. Company, on direct examination, as follows:

"I have lived in Chicago forty-two years. My first business in the city was paint business, in which I was engaged up until about nine years ago. I was also engaged in the chewing gum business, which I entered June 2, 1892 in connection with the Zeno Manufacturing Company. I was the manager of the Zeno Manufacturing Company. It was really the Rubber Paint Company that was in the chewing gum business. The Zeno Manufacturing Company was organized along about 1897 or 1898. Prior to that time the gum was made by the Rubber Paint Company. The Rubber Paint Company made chewing gum for Wm. Wrigley Jr. & Company in 1892. It first began to manufacture Spearmint gum for Wm.

Wrigley Jr. Company the last month of 1893 or the first of 1894. I fix the date from the fact that it was soon after the World's Fair, and I had an idea of bringing out a Spearmint gum myself, and he beat me to it.

Complainant's Exhibit 1 represents the chewing gum manufactured by the Rubber Paint Company for Wm. Wrigley Jr. & Company in the latter part of 1893 or the first part of 1894. The Rubber Paint Company continued to manufacture Spearmint gum for Wm. Wrigley Jr. Company until they sold out the chewing gum business to the Zeno Manufacturing Company, and they, the Zeno Manufacturing Company continued until they sold out to Wm. Wrigley Jr. Company. It was about in 1910.

I was continuously connected with the Rubber Paint Company and the Zeno Manufacturing Company from 1893 or the first part of 1894 throughout that period. Throughout that entire period the Rubber Paint Company and the Zeno Manufacturing Company were manufacturing a Spearmint chewing gum contained in a wrapper as identified by Complainant's Exhibit No. 1, except
(5099) they changed it to a single wrapper. They continued until they finally brought out what we call double wrapped gum. I refer to the change from the foil wrapped package which was made in 1906 or thereabouts. During all this period we were manufacturing for Wm. Wrigley Jr. Company, we were also manufacturing chewing gum and selling it under our own name and under our own brands.

There was certainly a reason for keeping from the salesmen of the Zeno Manufacturing Company or the Rubber Paint Company the fact that one or both of these companies were manufacturing gum for Wm. Wrigley Jr. Company. We kept it from the salesman and from everyone who was not personally engaged. We kept them from knowing that we were manufacturing Wrigley gum, so that the Zeno salesmen would not say that they were competitors of ours and they could not say we were manufacturing their gum, and we did not want Wrigley's salesmen to say that we were manufacturing their gums either."

On cross-examination:

"We got orders for Spearmint right along. They sold Spearmint gum along with their other gum in assortments. I have a distinct memory of making Spearmint

gum in 1893 and 1894, that we continued to sell as a commercial product.

Mr. Buck was superintendent of the factory. He looked after the making of the gum. We kept it secret that we were manufacturing gum for Wrigley, from everyone except those that it was necessary to be informed. Very few of the employes knew that we were making Spearmint for Wrigley. The bill clerks would know, but I think that we billed the goods as number so and so. We had an arrangement with the factory so as to keep it as free from people knowing it as possible—assortments number 1, number 2, that is my recollection at the present time. We had no sales-manager in those days. I was my own sales-manager. William H. Constantine was my assistant along the latter part up to 1910—somewhere along there. But he was really more of a salesman than anything else. He looked after the soap business.

I kept the thing as quiet as possible and only those that I could trust knew. The salesmen had nothing to do with it. They particularly must not know."

The testimony of O. J. BUCK, a witness called on behalf of the Wm. Wrigley Jr. Company, on direct examination, as follows:

(5100) "I am retired. I have been connected with the Rubber Paint Company since 1887. We began the manufacture of chewing gum in 1892. We manufactured both for the Rubber Paint Company and for other people under their own brands. We manufactured chewing gum for Wm. Wrigley Jr. & Company in 1892. We started to manufacture Spearmint for Wm. Wrigley Jr. & Company early in 1894.

Complainant's Exhibit 1 correctly represents the Spearmint package and wrappings as we made them in 1894.

I was general superintendent of the business of the Rubber Paint Company in 1894 and continued as such until we sold out some time in 1908, 1909 or 1910. We continuously manufactured a Spearmint chewing gum for Wm. Wrigley Jr. Company from 1894 until we sold out to the Zeno Manufacturing Company about 1907."

On Cross examination:

"I have testified that we made Spearmint gum prior to 1902. It is not a fact that the gum was experimental. We made a great many experiments with Spearmint flavors. We made a Spearmint chewing gum for commercial purposes from the time we started until I retired. From the time we started making Spearmint gum, we continued to make it. We made Spearmint gum for Wm. Wrigley Jr. & Company and nobody else."

The testimony of R. J. KITTREDGE, a witness called on behalf of the Wm. Wrigley Jr. Company, on direct examination, as follows:

"I am president and manager of R. J. Kittredge & Company. My occupation is printer of labels and color work generally. I have made chewing gum labels for the Rubber Paint Company since about 1891 or 1892. In 1893, the last of 1893 and the beginning of 1894, R. J. Kittredge & Company has made a label for the Rubber Paint Company bearing the name Wm. Wrigley Jr. & Company for a Spearmint flavor chewing gum. I fix the date because it was during the Chicago World's Fair. We got up several sketches, lead pencil sketches. They were sent back because they were not what Mr. Wrigley wanted. I think we made 50,000 wrappers on the first order. It was like Complainant's Exhibit 1 in this case. I am positive that we made a label like Complainant's Exhibit 1 in 1893 or 1894. We made other batches of those labels right along after the first batch in 1894. I don't recollect of ever having an order of more than
(5101) 100,000. I think about two or three times a year, at the beginning, or possibly only twice, we got orders for 100,000, and then it got a little more frequent up to 1901, 1902, or 1903, somewhere along in there, and then they began to get a little more of it.

I am sure that from the year 1894 to the year 1900 labels like that shown on Complainant's Exhibit 1, or modifications of that label, were made once or more during each year for the Wm. Wrigley Jr. Company."

The testimony of ALBERT H. SMITH, a witness called on behalf of the Wm. Wrigley Jr. Company, on direct examination, as follows:

"I was employed by the Rubber Paint Company from 1893 until the last of 1906. I had charge of the details of the business under Mr. A. G. Cox and Mr. O. J. Buck. The Rubber Paint Company manufactured Spearmint chewing gum for Wm. Wrigley Jr. Company in the early part of 1894. During the period I was employed by the Rubber Paint Company, it continued to manufacture a Spearmint chewing gum for Wm. Wrigley Jr. Company, wrapped in a label identical or substantially identical to the label of complainant's exhibit No. 1 in large quantities. Spearmint gum was made for Wm. Wrigley Jr. & Company beginning the first part of the year 1894 in quantities of 350 boxes at a time, probably two or three times a week. We made at least 10,000 boxes of Spearmint gum for Wm. Wrigley Jr. Company in 1894.

(5102) The cross-examination by Mr. Offield of Joseph H. Constantine, a witness called on behalf of the L. P. Larson Jr. Company, as follows:

"Q. In the course of your business would you have seen Spearmint gum in the factory if it had been there?

A. If it had been on the fifth floor of the factory I would have seen it.

Q. If it had been on any other floor you wouldn't have seen it?

A. I had no business on any other floor.

Q. What was your business on the fifth floor?

A. Taking care of the machinery.

Q. That was all done at night, after the machines had stopped?

A. Yes, sir."

(5103) Thereafter, beginning on January 22, 1924, there came on to be, and there were argued, before the undersigned by counsel for both the said parties, the exceptions filed herein on December 3, 1923 by said Wm. Wrigley Jr. Company to the report of the Master in Chancery, Charles B. Morrison, filed herein on November 13, 1923. The objections upon which said exceptions were based were the objections to the said Master's report which the

(Extract from proceedings before Judge Wilkerson.)

said Wm. Wrigley Jr. Company had theretofore duly filed with the said Master, and which said objections are those referred to by said Master in his said report as having been filed by said Wm. Wrigley Jr. Company and as being returned with his said report.

(5104) During the argument of said exceptions, Mr. Aldrich stated that, on behalf of the L. P. Larson Jr. Company, no objections would be filed to the report filed with said Master on July 6, 1922 by Wm. Wrigley Jr. Company of all the gains and profits of said Wm. Wrigley Jr. Company to it accruing or arising from the manufacture and sale by the William Wrigley Jr. Company Proprietary Limited, an Australian corporation, of its Doublemint gum which said report was filed with said Master pursuant to the Master's direction and Mr. Aldrich further said that he has abandoned his request for an accounting of that Company's business on account of the cost of pursuing the matter further.

(5105) During the argument on said exceptions it was stipulated by counsel for both parties that a copy of the account filed by said Wrigley Company April 21, 1922, with Master Morrison of the profits and losses of Wm. Wrigley Jr. Company Limited, the Canadian corporation, arising out of its sale of Doublemint gum in the enjoined dress might be considered as having been filed in the Clerk's office of this court and might be treated by this court on the hearing of said exceptions as though the original of said report had been filed herein and was before this court.

(5106) During the argument of said exceptions Mr. Aldrich admitted that the method of allocating advertising adopted by said Wrigley Company in its account filed with the Master is appropriate as an inter-departmental matter of accounting, but Mr. Aldrich claimed that the method was not a proper one to be applied in this case in view of the decree and in view of the fact that a third party's rights were involved, and he further claimed that the testimony showed that great value was created by advertising 'Wrigley's' and 'Doublemint' and that no attempt was made by the Wrigley Company to separate such value from the total claimed payments for or cost of advertising.

(5107) During the argument of said exceptions by Mr. Aldrich the following occurred:

"The Court: Aside from what appears in the Master's report, is there anything in the record that shows just how the Master proceeded in separating the institutional advertising from the brands advertised?

Mr. Aldrich: No, nothing that I know of except that he had these books here (referring to the 7 books of advertising, viz: Larson Exhs. 30-36 incl.) and was as competent to make a measurement of them with the assistance of Benington and Vincent, who were left as his lieutenants.

The Court: In other words, we are to understand that what we have here in this report is his honest judgment as to what is institutional and how much else of it went to advertise the brands.

(1637 Mr. Aldrich: Yes. It is his judgment.

The Court: Yes.

Mr. Lane: We asked him to disclose it to us, how he arrived at that but we could not get it.

The Court: I ask that to find out if there is any further light in the record, as to how he found that.

Mr. Aldrich: No.

The Court: So that I could be sure to rely, on that phase of the case, to have everything that the record showed, by referring to his report.

Mr. Aldrich: I think that is true.

Mr. Mayer: I intend to demonstrate from the record that his conclusions were unsound. In other words, there was no support for his guess, and that he guessed wrong. But Mr. Aldrich and I are agreed, and Mr. Lane, that the record does not show what basis he adopted for his conclusions, except insofar as, if at all, they are specified in the report."

(5108) During Mr. Aldrich's argument before Master Morrison and also during his argument before the court on the Wm. Wrigley Jr. Company's exceptions to the Master's Report, Mr. Aldrich conceded that neither the Master nor this court would be justified in allowing to the L. P. Larson Jr. Company the gross profits made by the Wm. Wrigley Jr. Company in the manufacture and sale of its Doublemint gum, and that it was the duty of the Master and the court to allow said Wrigley Company to deduct from said gross profits its overhead, advertising and other proper expenses. Mr. Aldrich said that he

conceded this in view of the accounting decree and that it was his claim that if it were not for the particular terms of the accounting decree herein the Master and the District Court would have had to deny any allowance to the Wrigley Company on account of overhead, advertising and other proper expenses.

(5109) Counsel for the Wm. Wrigley Jr. Company also drew the attention of the court, during their arguments of said exceptions, to all of the foregoing matters to which, as aforesaid, they had drawn the Master's attention.

(5110) The undersigned further hereby certifies that while the court had under consideration the arguments of counsel on the Wrigley Company's exceptions to said Master's report, with the consent of the parties he received assistance from Harold Benington of the firm of Ernest Reckitt & Company, said Wrigley Company's expert accountant, and from W. W. Vincent, one of the employees of the firm of Touch, Niven & Company, one of said Larson Company's expert accountants, in making computations to give effect to the conclusions of the Court, and Messrs. Benington and Vincent prepared for the undersigned, with the consent of counsel for both parties, and there were filed in said Court, the following tables and reports:

(5111) *Wrigley* v. *Larson.*

Memorandum for Judge Wilkerson, prepared at his request, by H. Benington, and W. W. Vincent, accountants employed by the respective parties to the above suit.

As Schedule "B" is attached a statement showing what would be Doublemint's proportion of the cost of advertising in newspapers, bill posting, painted walls, electric signs, and street cars, arrived at by eliminating institutional advertising from the measured space figures shown by Wrigley's Exhibit 65, Stanley 12.

This statement has been prepared on the assumption that the theory on which Wrigley's Exhibit 65, Stanley 12, was prepared is correct, except that institutional advertising (on the Master's theory) should have been

eliminated. The arithmetical accuracy of Wrigley's Exhibit 65, Stanley 12 is also assumed.

As Schedule "A" is attached a statement showing Doublemint's proportion of the total cost of advertising in newspapers, bill posting, painted walls, electric signs, and street cars, arrived at by first eliminating institutional advertising therefrom (on the Master's theory) and apportioning the balance on the basis of the relative sales of the different brands of gum sold. (These are the figures used by the Master in compiling his report.)

Were the method of apportionment, as set out in Schedule "B" adopted in place of that used by the Master, the Wrigley Company would be allowed an increased deduction on account of advertising of $698,499.01.

It should be borne in mind that the attached statements deal only with such part of the total advertising expenses as it is claimed by the Wrigley Company should be apportioned on a space basis.

(5112) WRIGLEY vs. LARSON.

Statement showing result of applying two plans for ascertaining Doublemint's proportion of **Brand** Advertising in Newspapers, Bill Posting, Painted Walls, Electric Signs, and Street Cars, after eliminating Institutional Advertising therefrom on Master's Theory.

Plan (a): By apportioning on the basis of Sales as was done by the Master (for details see attached Schedule "A".)

Plan (b): By deducting the percentages for Institutional Advertising on page 17 of the Master's Report from the cost of Doublemint Advertising, arrived at on the space method shown on Wrigley's Exhibit 65, Stanley 12 (for details see attached Schedule "B".)

	Newspapers	Bill Posting	Painted Walls Elec. Signs	Street Cars	Totals
Plan (a),	$123,419.43	$120,190.57	$117,147.14	$136,465.73	$ 497,222.87
Plan (b),	388,384.51	308,014.16	142,152.73	357,170.48	1,195,721.88
Excess of Plan (b) over (a),	$264,965.08	$187,823.59	$ 25,005.59	$220,704.75	$698,499.01

M. M.

SCHEDULE "A".

WRIGLEY vs. LARSON

Doublemint's proportion of total cost of advertising in Newspapers, Bill Postings, Painted Walls, Electric Signs and Street Cars (after eliminating Institutional Advertising therefrom on Master's theory) arrived at by apportioning on the basis of Sales as was done by the Master.

	7/28 to 12/31/14	1915	1916	1917	1/1 to 11/12/18	Total
NEWSPAPERS:						
(a) As per Larson Exhibit 168 (as adjusted by Master),	$244,110.57	$360,837.03	$325,564.20	$327,905.83	$329,162.00	$1,587,579.63
(b) % of Institutional as per Master's Report, Page 17,	1.632%	51.363%	67.523%	67.601%	67.616%	
(c) Amount of Institutional on basis of above percentages,	$ 3,983.88	$185,336.72	$219,830.71	$221,667.62	$222,566.18	$ 853,385.11
(d) Net amount after deducting Institutional (c) from Larson Exhibit #168 (as adjusted by Master) (a),	240,126.69	175,500.31	105,733.49	106,238.21	106,595.82	734,194.52
(e) % of Doublemint Sales to Sales of All Advertised Brands,	16.272%	19.485%	17.1459%	15.716%	14.3762%	
(f) Doublemint proportion on basis of above percentages,	$ 39,073.41	$ 34,196.24	$ 18,128.96	$ 16,696.39	$ 15,324.43	$ 123,419.43
BILL POSTING:						
(a) As per Larson Exhibit 168 (as adjusted by Master),	105,910.44	263,765.23	207,312.47	258,646.06	315,876.13	1,151,510.33
(b) % of Institutional as per Master's Report, Page 17,	3.11%	2.293%	62.275%	56.247%	51.373%	
(c) Amount of Institutional on basis of above percentages,	$ 3,293.80	$ 6,048.14	$129,103.84	$145,480.65	$162,275.04	$ 446,201.47
(d) Net amount after deducting Institutional (c) from Larson Exhibit 168 (as adjusted by Master) (a),	102,616.64	257,717.09	78,208.63	113,165.41	153,601.09	705,308.86
(e) % of Doublemint Sales to Sales of All Advertised Brands,	16.272%	19.485%	17.1459%	15.716%	14.3762%	
(f) Doublemint proportion on basis of above percentages,	$ 16,697.77	$ 50,216.17	$ 13,409.57	$ 17,785.07	$ 22,081.99	$ 120,190.57
WALLS, BOARDS AND ELECTRIC SIGNS:						
(a) As per Larson Exhibit 168 (as adjusted by Master),	160,187.35	308,044.37	238,409.56	177,247.31	80,636.16	964,524.75
(b) % of Institutional as per Master's Report, Page 17	3.11%	2.293%	62.275%	56.247%	51.373%	
(c) Amount of Institutional on basis of above percentages,	$ 4,981.83	$ 7,063.46	$148,469.55	$ 99,696.29	$ 41,425.21	$ 301,636.34
(d) Net amount after deducting Institutional (c) from Larson Exhibit 168 (as adjusted by Master) (a),	155,205.52	300,980.91	89,940.01	77,551.02	39,210.95	662,888.41
(e) % of Doublemint Sales to Sales of All Advertised Brands,	16.272%	19.485%	17.1459%	15.716%	14.3762%	
(f) Doublemint proportion on basis of above percentages,	$ 25,255.04	$ 58,646.13	$ 15,421.02	$ 12,187.91	$ 5,637.04	$ 117,147.14
STREET CARS:						
(a) As per Larson Exhibit 168 (as adjusted by Master),	127,056.70	311,315.71	319,121.82	346,491.63	313,021.11	1,417,006.97
(b) % of Institutional as per Master's Report, Page 17,	11.27%	11.97%	53.00%	67.144%	53.08%	
(c) Amount of Institutional on basis of above percentages,	$ 14,319.29	$ 37,264.48	$169,134.56	$232,648.34	$166,151.61	$ 619,518.28
(d) Net amount after deducting Institutional (c) from Larson Exhibit 168 (as adjusted by Master) (a),	112,737.41	274,051.23	149,987.26	113,843.29	146,869.50	797,488.69
(e) % of Doublemint Sales to Sales of All Advertised Brands,	16.272%	19.485%	17.1459%	15.716%	14.3762%	
(f) Doublemint proportion on basis of above percentages,	$ 18,344.63	$ 53,398.88	$ 25,716.66	$ 17,891.61	$ 21,113.95	$ 136,465.73

ELH

(5114)

SCHEDULE "B".

WRIGLEY vs. LARSON

Doublemint's proportion of total cost of advertising in Newspapers, Bill Postings, Painted Walls, Electric Signs and Street Cars arrived at by eliminating "Institutional Advertising" from the measured space figures shown by Wrigley Exhibit 65, Stanley 12.

	7/28 to 12/31/14	1915	1916	1917	1/1 to 11/12/18	Total
NEWSPAPERS:						
(a) As per Stanley's figures,	$156,481.38	$189,108.96	$189,131.37	$109,467.28	$140,777.81	$784,966.80
(b) % of Institutional as per Master's Report, page 17,	1.632%	51.363%	67.523%	67.601%	67.616%	.....
(c) Amount of Institutional on basis of above percentages,	$ 2,553.78	$ 97,132.04	$127,707.17	$ 74,000.98	$ 95,188.32	$396,582.29
(d) Net amount after deducting Institutional (c) from Stanley's figures (a),	153,927.60	91,976.92	61,424.20	35,466.30	45,589.49	388,384.51
BILL POSTING:						
(a) As per Stanley's figures,	43,994.52	134,345.38	109,001.74	99,259.52	101,945.64	488,546.80
(b) % of Institutional as per Master's Report, Page 17,	3.11%	2.293%	62.275%	56.247%	51.373%	.....
(c) Amount of Institutional on basis of above percentages,	$ 1,368.23	$ 3,080.54	$ 67,880.84	$ 55,830.50	$ 52,372.53	$180,532.64
(d) Net amount after deducting Institutional (c) from Stanley's figures (a),	42,626.29	131,264.84	41,120.90	43,429.02	49,573.11	308,014.16
PAINTED WALLS, ELECTRIC SIGNS:						
(a) As per Stanley's figures	.....	70,002.90	101,876.33	58,845.98	19,691.27	250,416.48
(b) % of Institutional as per Master's Report, page 17,	3.11%	2.293%	62.275%	56.247%	51.373%	.....
(c) Amount of Institutional on basis of above percentages,	$.....	$ 1,605.17	$ 63,443.48	$ 33,099.10	$ 10,116.00	$108,263.75
(d) Net amount after deducting Institutional (c) from Stanley's figures (a),	.....	68,397.73	38,432.85	25,746.88	9,575.27	142,152.73
STREET CARS:						
(a) As per Stanley's figures,	75,860.83	158,081.00	145,749.21	106,451.61	100,644.93	586,787.58
(b) % of Institutional as per Master's Report, Page 17,	11.27%	11.97%	53.00%	67.144%	53.08%	.....
(c) Amount of Institutional on basis of above percentages,	$ 8,549.52	$ 18,922.30	$ 77,247.08	$ 71,475.87	$ 53,422.33	$229,617.10
(d) Net amount after deducting Institutional (c) from Stanley's figures (a),	67,311.31	139,158.70	68,502.13	34,975.74	47,222.60	357,170.48

ELH

(5115) *Wrigley* v. *Larson.*

Memorandum prepared for Judge Wilkerson, at his request, by Messrs. Harold Benington, and W. W. Vincent, Accountants employed by the respective parties in the above suit, relating to (a) Contingent Liability for U. P. S. Coupons, (b) Interest on Invested Capital, (c) Interest on Capital Invested in Patents.

(a) Contingent Liability for U. P. S. Coupons:

Your Honor has made a clerical error in your calculations on this subject, which results in the Wrigley Company being allowed to deduct $4.30 more than you intended.

(b) Interest on Invested Capital:

Your Honor has made a clerical error in your calculations on this subject and has allowed as a Doublemint expense $1,870.76 more than you intended.

(c) Interest on Capital Invested in Patents:

Your Honor has made a clerical error in your calculations on this subject, and has allowed as a Doublemint expense $3.105.52 less than you intended.

Feb. 11, 25.

(5116) *Wrigley* v. *Larson.*

Memorandum for Judge Wilkerson, prepared at his request by Messrs. Harold Benington, and W. W. Vincent, Accountants employed by the respective parties in the above suit, relating to the groups of Advertising Expenses known as "Advertising Material," "Miscellaneous Advertising," and "Donations of Gum."

The fifth paragraph appearing on page 37 of the printed copy of your Honor's decision in the above matter reads as follows:

"As to the other items relating to Advertising which are in dispute, the rulings of the Master are sustained."

Your Honor, however, does not state what are the "Other Items" in question, nor the amount thereof to be deducted from Doublemint profits.

There are three groups of Advertising Expenses in re-

spect of which the Master allowed a charge against Doublemint Profits, but in regard to which your Honor's decision names no amount. These groups are:

Advertising Material.
Miscellaneous Advertising.
Donations of Gum.

The amounts deductible from Doublemint profits in respect of each of these three groups of expense were in controversy. The Wrigley Company contended that the Doublemint proportion thereof could be definitely segregated with reasonable accuracy, and set up the amount chargeable against Doublemint profits in Wrigleys Exhibit 65, Stanley 12, as follows:

Advertising Material.....	$96,587.81
Miscellaneous Advertising.....	68,448.49
Donations of Gum.....	13,097.09

(5117) The Larson Company contended that the total expenses for all brands of gum falling under these three classifications could not be definitely segregated, and therefore, should be allocated among the different brands of gum in proportion to their relative sales. (The Master adopted this latter theory of allocation.)

So far as the record is concerned. "Mother Goose Booklets" have always beein included under the caption "Advertising Material," and should your Honor decide to adopt as Doublemint's proportion of Advertising Material the figures shown in Wrigley's Exhibit 65, Stanley 12, you should first deduct therefrom $21,316.66 which is Doublemint's share of the cost of Mother Goose Booklets now being considered by you as forming part of the group of Advertising Expenses containing Institutional Features.

The total expenses of each group for all brands, and Doublemint's proportion thereof, on a sales basis, is shown below:

	Total	% of Doublemint Sales to All Sales	Doublemint's Proportion
ADVERTISING MATERIAL (Excluding Mother Goose Booklets):			
1914 (7/28-12/31)	$ 4,362.98	16 272	$ 709.94
1915	29,604.14	19 485	5,768.37
1916	37,830.44	17 1459	6,486.37
1917	39,183.09	15 716	6,158.01
1918 (1/1-11/12)	3,166.22	14 3762	455.18
	$114,146.87		$ 19,577.87
MISCELLANEOUS ADVERTISING:			
1914 (7/28-12/31)	$ 17,618.94	16 272	$ 2,866.95
1915	61,704.00	19 485	12,023.02
1916	42,312.67	17 1459	7,254.89
1917	45,677.52	15 716	7,178.68
1918 (1/1-11/12)	39,374.08	14 3762	5,660.50
	$206,687.21		$ 34,984.04

Donations of Gum:

The cost of Donations of Gum, other than Doublemint, is not available to us, though we understand that Donations of Spearmint and Juicy Fruit were made at different times during the accounting period, and the cost thereof could be ascertained from the Wrigley Company's ledgers, which, however, are now in storage.

(5118 *Wrigley* v. *Larson.*

Memorandum for Judge Wilkerson, prepared at his request by Messrs. Harold Benington and W. W. Vincent, Accountants employed by the respective parties to the above suit.

On October 2nd, 1924, we handed you a memorandum showing that the cost of advertising in Newspapers, Bill Posters, Painted Walls, Electric Signs, and Street Cars, applicable to Doublemint gum from July 28th, 1914 to November 12th 1918, amounted to $1,195,721.88, on the theory of deducting the percentages for Institutional Advertising for each year of the accounting period, as used by Master Morrison, from the cost of the Doublemint Advertising arrived at on the space method as shown by Wrigley's Exhibit 65, Stanley 12.

At your request we have now determined the cost of

Foreign Advertising and Mother Goose Booklets, applicable to Doublemint, on the same theory of allocation as was applied by us to the previously mentioned classes of Advertising, and find that as regards Foreign Advertising, the proportion thereof chargeable to Doublemint is $601.96, and as regards Mother Goose Booklets, the proportion chargeable to Doublemint is $21,316.66.

We find, therefore, that the total amount to be deducted from Doublemint profits in respect of Advertising in Newspapers, Street Cars, in Bill Posters, and on Painted Walls, and Electric Signs, and Mother Goose Booklets, from which the Institutional element has been eliminated on your theory, is $1,217,640.50, and the wording in the first sentence on page 37 of the printed copy of your Honor's decision should, therefore, be altered so that after the word "Signs" at the end of the third line, the

(5119) words "and Mother Goose Booklets" will be inserted and the sentence be concluded "is $1,217,640.50." The second paragraph on page 37 of your Honor's decision should also be amended so as to eliminate the wording "and $47,253.47, the amount expended for Mother Goose Booklets after the Master's deduction on account of General or Institutional Advertising is taken out."

The amount in the last sentence under "Advertising" will require to be changed when you have reached a final decision as to such amount.

Feb 11 '25

(5120) Subsequently there was a further argument before the Court involving the right and power of the Master to order the Wm. Wrigley Jr. Company to account for the sales of Doublemint gum by the Canadian and Australian Corporations and when the court, during said argument, asked counsel whether they were willing that the court decide those questions now, counsel for both parties consented thereto.

Neither the Master nor the court in deciding the question of the right and power of the Master to order the Wm. Wrigley Jr. Company to account for the sales of Doublemint gum made by the Canadian corporation, considered the question of the accuracy of the said account filed by said Wm. Wrigley Jr. Company on April 21, 1922, with the said Master.

(5121) I hereby certify that, with the exception hereinafter

noted, the foregoing volume numbered IV, together with three other volumes numbered respectively from I to III, both inclusive, and filed herein with this Vol. No. IV, constitute a true, complete and properly prepared statement, in simple and condensed form, of all the evidence offered or received and proceedings had upon the trial and hearing of the above entitled cause held for the purpose of carrying out the directions of the United States Circuit Court of Appeals for the Seventh Circuit contained in its mandate filed herein on September 30, 1918, following the first decision of that court in this action, the testimony of the witnesses being stated in narrative form, save that where either party desired it and the undersigned so directed, parts of the testimony were reproduced in the exact words of the witness, all parts of the evidence being omitted which are not essential to the decision of the questions presented by the appeals of the Wm. Wrigley Jr. Company and L. P. Larson Jr. Company, respectively, taken herein on March 20, 1925. The Exhibits offered or introduced in said proceedings have been in large part omitted from these volumes with the consent of the parties and the approval of the court, as this court has heretofore by order duly entered in this case on March 20, 1925, directed that all the exhibits in said cause excepting Larson Exhibits numbered 30 to 36, respectively, both inclusive, be sent to the Court of Appeals upon the hearing of said appeals and that said Larson Exhibits No. 30 to 36 respectively, both inclusive, may be retained for safekeeping in the cus-
(5122) tody of said Wm. Wrigley Jr. Company subject, however, to be produced at the request of either said Circuit Court of Appeals or said L. P. Larson Jr. Company and that no exhibits need be included in the transcript of the record for either of the said appeals, and as the parties hereto have entered into a stipulation dated and approved by the court on June 3, 1925, for the printing and binding by the Clerk of said Circuit Court of Appeals in a separate volume of such exhibits as either party desires to be reproduced; and I now herewith approve the foregoing statements of the evidence and proceedings.

JAMES H. WILKERSON
Judge of Said United States District Court

Dated Chicago December 24, 1925.

Master's Summons and Wrigley Statement of Account.

608 And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a certain Testimony, pages 2 & 3, Vol. I, hereto in words and figures following towit:

609 Wednesday, October 16, 1918, 10 o'clock a. m. Met pursuant to notice.

Present: Messrs. Aldrich,
Reed,
Parkinson.

Counsel for L. P. Larson Jr. Company, counterclaimant, entered a motion for a rule on William Wrigley Jr. Company, defendant to the counterclaim, to furnish an account under Federal Equity Rule 63 within two weeks from this date.

Counsel for the defendant to the counterclaim objected because the time suggested in the motion was not sufficient to enable the accounting party to prepare and present its account.

The motion of the counterclaimant is sustained and it is Ordered that:

The Wm. Wrigley Jr. Company furnish and file with the master on or before 4 o'clock in the afternoon of Wednesday, the 30th day of October, 1918, an account in debtor and creditor form, showing the gains and profits of the Wm. Wrigley Jr. Company from July 28, 1914, to the entry of the decree herein, accruing or arising from the manufacture and sale of its Doublemint gum in dress, wrappers or labels identical with or in combination substantially like the dress, wrappers or labels heretofore and now used on the brand of
610 gum of Wm. Wrigley Jr. Company known as "Doublemint" as stated in the decree.

The account should be based upon the books, records and papers of the accounting party, with periodical rests therein to conform with the books as kept and should show the cost, selling price, gains and profits in such manner and in such detail that the correctness of the account may be readily tested by a comparison with the books and records of the accounting party.

Counsel for counterclaimant also entered a motion that

the master employ chartered accountants, as provided for in the decree, to examine the books of Wm. Wrigley Jr. Company and ascertain and report the profits, if any, accruing to that company from the sale of Doublemint gum as contra-distinguished from the other brands of gum made by that company during the period.

This motion was denied on the ground that the Wm. Wrigley Jr. Company has itself been ordered to furnish an account within a short time and such amount when furnished may be accepted by the counterclaimant as true and correct and the expense of chartered accountants should not be incurred until the accounting party has had reasonable time in which to prepare and present its account.

Whereupon an adjournment was taken to Monday, October 21, 1918, at 10:30 a. m.

494 And on to-wit. the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a certain Wrigley Company's Account: Part 1, in words and figures following to-wit:

Wrigley Company's Account, Part 1.

495 WRIGLEY COMPANY'S ACCOUNT: Part 1.

Filed Dec. 3, 1918, C. B. M., Master.

* * * No. 488 * * *

The Wm. Wrigley Jr. Company above-named plaintiff responding to the order of the Master herein to furnish and file with the Master—

"an account in debtor and creditor form showing the gains and profits of the Wm. Wrigley Jr. Company from July 28, 1914 to the entry of the decree herein, accruing or arising from the manufacture and sale of its Doublemint gum in dress, wrappers or labels identical with or in combination substantially like the dress, wrappers or labels heretofore and now used on the brand of gum of Wm. Wrigley Jr. Company known as 'Doublemint' as stated in the decree.",

files, under protest, the attached account, and for grounds of protest says:

First: The said order of the Master is not warranted by the record or by the order of reference herein.

Second: No sales of said Doublemint were made or sold by plaintiff except under its own name as manufacturer, and in boxes and wrappers plainly identifying such Doublemint as plaintiff's product, and no gains or profits have accrued to plaintiff by reason of its Doublemint gum having been sold in said dress, labels or wrappers, except as said dress, labels or wrappers, identified said product with plaintiff's name, reputation and advertisements and which gains and profits would equally have accrued to
496 plaintiff if said Doublemint has been sold in dress, labels or wrappers, corresponding in all respects (except plaintiff's registered name Doublemint and its registered trade-mark Double Spear) with those used by plaintiff and identified with its reputation when the product of L. P. Larson Jr. Company was first placed on the market and for many years theretofore.

Third: No Doublemint was sold as, or confused with, the L. P. Larson Jr. Company's Wintermint, or any of its products.

Fourth: Not waiving but expressly reserving all objections heretofore made by plaintiff to said order of the

Master to file and account herein and expressly subject to each and every of said objections, the plaintiff says that the statement hereto attached is, as plaintiff verily believes, a correct amount in debit and credit form of all the Doublemint packages of the character referred to in the decree herein sold by Wm. Wrigley Jr. Company during the period specified in said decree; and the plaintiff says, that, so far as it knows or is able to ascertain, none of said packages was vere sold, or bought as the product of L. P. Larson Jr. Company, but all were sold and bought exclusively as the product of plaintiff, Wm. Wrigley Jr. Company.

WM. WRIGLEY JR. COMPANY,
By EDWARD W. ECKERLY
Vice Pres.

State of Illinois } ss.
County of Cook }

EDWARD W. ECKERLY being first duly sworn on oath deposes and says that he is the Vice President of the Wm. Wrigley Jr. Company, Plaintiff in the above cause; that
497 he is familiar with the attached account and that according to the best knowledge and belief of this deponent, the said account fully and correctly shows all matters therein purported to be shown.

EDWARD W. ECKERLY

Subscribed and sworn to before me, a Notary Public in and for said Cook County, this third day of December, 1918.

GEORGE J. NEUMANN,
(Seal) *Notary Public.*

My Commission Expires Feb. 20, 1921.

498

499 PROFIT AND LOSS STATEMENT
OF
WRIGLEY'S DOUBLEMINT
July 28th, 1914 to December 31st, 1914.
Both dates inclusive

Debits			
Manufacturing Costs		Sales:	
Toronto Fcty.:			
72,994 boxes @ .215472c	$15,728.16	1,175,422 Boxes	$570,426.40
Chgo, & Bklyn. Fcty.			NET LOSS
1,102,428 boxes @ .202186c	222,895.51	$ 238,623.67	301,580.02
Overhead, based on proportion of Doublemint sales to all sales 16.1927% of $456,697.59		73,951.79	
Advertising chargeable to Doublemint		481,499.22	
Trade Discounts; Allowances to Jobbers		5,586.44	
Printing U. P. S. Coupons		339.20	
Proportion of amount paid for U. P. S. Coupons		1,341.87	
Proportion of interest on capital invested in business		26,642.00	
Proportionate contiagent liability for unredeemed Doublemint U. P. S. Coupons based on Doublemint packages shipped as compared with total number of packages shipped bearing U. P. S. Cupons		44,022.23	
		$ 872,006,42	$ 872,006.42

500 PROFIT AND LOSS STATEMENT
OF
WRIGLEY'S DOUBLEMINT
January 1st, 1915 to December 31st, 1915
Both dates inclusive

Debits			Credits
Manufacturing Cost		Sales:	
		3,508,878½	
Toronto Fcty.:		Boxes;	$1,816,332.08
146,991 boxes @ .200764c	$29,912.03	NET LOSS	212,249.94
Chgo, & Bklyn Fcty.			
14,525 boxes @ .202186c	2,936.75		
3,345,362½ boxes @ .222869c	754,577.48	$ 778,426.26	
Overhead; based on proportion of Doublemint sales to all sales 18.6920% of	998,322.22	186,606.72	
Advertising chargeable to Doublemint		824,209.32	
Trade Discounts; allowances to Jobbers		22,956.39	
Printing U. P. S. Coupons		1,127.45	
Proportion of amount paid for U. P. S. Coupons		48,537.27	
Proportion of interest on capital invested in business		78,049.77	
Proportionate contingent liability for unredeemed Doublemint U. P. S. coupons based on Doublemint packages shipped as compared with total number of packages shipped bearing U. P. S. Coupons		88,668.84	$2,028,582.02
		$2,028,582.02	

501 PROFIT AND LOSS STATEMENT
OF
WRIGLEY'S DOUBLEMINT
January 1st, 1916 to December 31st, 1916
Both dates inclusive

Debits			Credits	
Manufacturing cost			Sales: 3,977,910 Boxes	$2,049,964.85
Chgo. & Bklyn Fcty.: 26,707 boxes @ .222869c	$ 5,952.16		NET LOSS	18,020.69
Chgo. & Bklyn. Fcty; 3,951,203 boxes @ .221182c	873,934.98	$ 879,887.14		
Overhead, based on proportion of Doublemint sales to all sales 16,4229% of $1,308,576.90		214,906.28		
Advertising chargeable to Doublemint		719,854.52		
Trade Discount; allowances to jobbers		23,448.07		
Proportion of amount paid for U. P. S. Coupons		98,505.24		
Proportion of interest on capital invested in business		72,265.18		
Proportionate contingent liability for unredeemed Doublemint U. P. S. Coupons based on Doublemint packages shipped as compared with total number of packages shipped bearing U. P. S. Coupons		59,119.11		
		$2,067,985.54		$2,067,985.54

502 PROFIT AND LOSS STATEMENT
of
WRIGLEY'S DOUBLEMINT
January 1st, 1917 to December 31st, 1917
Both dates inclusive

Debits			Credits	
Manufacturing Cost			Sales; 4,532,811 Boxes	$2,348,003.49
Chgo & Bklyn Fcty.: 63,603 boxes @ .221182c	$ 14,067.84			
Chgo. & Bklyn. Fcty.; 4,469,208 boxes @ .214050c	956,633.97	$ 970,701.81		
Overhead; based on proportion of Doublemint sales to all sales 14.9424% of 1,576,438.55		235,557.75		
Advertising chargeable to Doublemint		439,740.22		
Trade Discounts; allowances to Jobbers		2,091.25		
Proportion of amount paid for U. P. S. Coupons		105,264.13		
Proportion of Interest on Capital invested in business		71,749.97		
Proportionate contingent liability for unredeemed Doublemint U. P. S. Coupons based on Doublemint packages shipped as compared with total number of packages shipped bearing U. P. S. Coupons		63,025.21		
Income and Excess Profits tax		286,960.83		
NET PROFIT		172,912.32		
		$2,348,003.49		$2,348,003.49

NOTE: We have deducted taxes upon assumption that the Doublemint profits were the last; i. e. upon the supposition that the profits do not belong to us; however if we ignore the profits as though not earned, we were already in the 60% class (or bracket-peak) and the additional earnings from Doublemint would be in that class.

503

PROFIT AND LOSS STATEMENT
OF
January 1st, 1916 to August 24th, 1918
Both dates inclusive

Debits			Credits	
Manufacturing Cost			Sales; 3,247,539 Boxes	$1,772,376.55
Chgo & Bklyn. Fcty.: 21433 boxes @ 214050c	$ 4,587.73			
Chgo. & Bklyn. Fcty.: 3,226,106 boxes @ .214467c	$ 691,873.28	$ 696,481.01		
Overhead, based on proportion of Doublemint sales to all sales 14.9042% of—	$1,067,505.99	159,103.21		
Advertising chargeable to Doublemint		288,540.70		
Proportion of amount paid for U. P. S. Coupons		63,333.18		
Proportion of interest on capital invested in business		49,471.21		
Proportionate contingent liability for unredeemed Doublemint U. P. S. Coupons based on Doublemint packages shipped as compared with total number of packages shipped bearing U. P. S. Coupons		55,905.37		
Income & Excess Profits Tax (Estimated)		286,753.79		
NET PROFIT		172,787.55		
		$1,772,376.02		$1,772,376.02

NOTE: The amount of State & Federal Taxes to be paid for the year 1918 has not yet been determined, but based on the taxes paid in the year 1917 and at the same rates, the amount of Federal Taxes we would have to pay (for the period January 1st, 1918 both dates inclusive) on Doublemint business would be $286,753.79.

SUMMARY OF SALES OF WRIGLEY'S DOUBLEMINT

From July 28th 1914 to August 24th, 1918 both dates inclusive.

Period	* U. S. A. BOXES (1)	* U. S. A. Sales Amount (2)	FOREIGN SALES Boxes (3)	FOREIGN SALES Sales Amount (4)	Total Boxes Col 1. X Col 3)	Total Amount (Col 2 x Col 4)
July 28, 1914 to Dec. 31, 1914	1.100.131	$ 534,420.04	75,291	$36,006.36	1,175.422	$ 570,426.40
Jan. 1, 1915 to Dec. 31, 1915	3.310.014½	1,719,849.06	198,864	96,483.02	3,508,878½	1,816,332.08
Jan. 1, 1916 to Dec. 31, 1916	3.877.292	2,011,799.92	100,618	38,164.93	3,977,910	2,049,964.85
Jan. 1, 1917 to Dec. 31, 1917	4.379.486	2,289,609.77	153,325	58,393.72	4,532.811	2,348,003.49
Jan. 1, 1918 to Aug. 24, 1918	3 135.001	1,719,182.05	112,538	53,193.97	3,247.539	1,772,376.02
TOTAL	15,801,924½	$8,274,860.84	640,636	$282,242.00	16,442.560½	$8,557,102.84

* By the "U. S. A." the territory Oregon to Florida and California to Maine is designated.

NOTE: Sales of Wrigley's Doublemint single stick gum sold in Vending Machines, the packages and dress differing from those covered by issue and decree, are not understood to be subject to accounting.

505 STATEMENT OF
DISPOSITION OF WRIGLEY'S DOUBLEMINT

BOXES

DATE	Sold in U. S. A. & Foreign Countries	given away	Returned to Kettles	From Factory to Shipping Dept.
1914				
July 28th to Dec. 31st both dates incl.	1,175,422	113,766		1,289,188
Year 1915	3,508,878-½	333,825½	14,149	3,856,853
Year 1916	3,977,910	282,371	5,399	4,265,680
Year 1917	4,532,811	53,273	14,419	4,600,503
1918				
Jan. 1st to Aug. 24th both dates incl.	3,247,539	7,252½	6,182½	3,260,974
TOTALS	16,442,560½	790,488	40,149½	17,273,198

5 06 STATEMENT OF

% of amount of Doublemint sales to amount of all sales
(dates inclusive)

Date	Total of all Sales Col 1.		
Jul. 28 1914 to Dec. 31 1914	$ 3,522,732,30	$ 570,426,40	16,1927%
Jan. 1, 1915 to Dec. 31 1915	9,717,145.33	1,116,332,08	18,692%
Jan. 1, 1916 to Dec. 31 1916	12,482,342,87	2,049,964.84	16,4229%
Jan. 1, 1917 to Dec. 31 1917	15,713,657,84	2,348,003,49	14,9424%
Jan. 1, 1918 to Aug. 24, 1918	11,891,741,55	1,772,376,02	14,0042%
TOTALS	53,327,619,89	8,557,102,84	16,0463%

COMPARATIVE STATEMENT OF U. P. S COUPONS ISSUED WITH DOUBLEMINT GUM

	(Col 1.) Total No. of boxes of all brands with U. P. S. Coupons	(Col 2.) % which Doublemint with U. P. S. Coupons bears to total of all coupons issued	(Col 3) Total No of Boxes of Doublemint shipped with U. P. S. coupons	(Col 4) Total redeemable value of U. P. S. Coupons issued with all brands	(Col 5) Total redeemable value of U. P. S. Coupons issued with Doublemint using % in Col 2. of Col 4.	(Col 6) Actual amount paid for redemption of coupons of all brands	(Col 7) Proportion of amt. actually paid for redemption of Double mint Coupons using % in Col. 2. of Col. 6.	(Col 8) % of U. P. S. Coupons on Doublemint redeemed as to quantity issued with Doublemint col 7 as to Col 5	(Col 9) Amount chargeable for contingent liability to cover future redemptions at 50% of actual amt. issued on Doublemint (Col 5) less amt actually redeemed (Column 7)
July 28, 1914 to Dec. 31, 1914 both dates incl.	5,092,338	23,83604 %	1,213,812	$ 380,634,53	$ 90,729.20	$ 5,629.60	1,341.87	1,478%	$44,022.23
Year 1915	16,551,797	21,954691%	3,633,896	1,249,902,49	274,412.22	221,079.29	48,537.27	17,687%	88,668.84
Year 1916	21,830,799	19,078834%	4,165,062	1,652,347.92	315,248.71	516,306,42	98,505.24	31,25 %	59,119.11
Year 1917	26,985,788	16,479703%	4,447,178	2,042,383.17	336,578.68	638,750.16	105,264.13	31.274%	63,025.21
Jan 1918 to Aug. 1918 both dates incl.	18,428,080	17,085 %	3,148,436	1,395,827.44	238,477.11	370,694.64	63,333.18	26,557%	55,905.37
Totals	88,888,802		16,608,384	$6,721,095.55	$1,255,444.92	$1,752,460.11	$316,981.69	24,2439%	$310,740.76

508 **STATEMENT SHOWING HOW PROPORTION OF "INTEREST ON CAPITAL INVESTED IN BUSINESS" IS ASCERTAINED FOR 1914.**

		From Aug. 1, 1914 to Dec 31, 1914 both dates inclusive	
	January 1, 1914	January 1, 1915	
Cash in Bank and On Hand	$ 542,248.87	$ 451,999.97	
Accounts Receivable	745,421.38	789,939.02	
Claims		685.13	
Merchandise & Supplies On hand.	2,620,729.91	2,648,677.42	
Advances for Raw Material	117,974,48	62,009.74	
Real Estate & Buildings	735,502.55	949,083.51	
Machinery & Equipment	351,152.58	440,301,84	
Power Plant	79,032.48	80,851.01	
Office Fixtures	32,452.97	35,272.01	
Motor Trucks	14,071,36	14,071.36	
Less Accounts Payable	*68,643.85*	*32,466.75*	
	$5,169,942,73	$ 5,440,424.26	
Less Depreciation		101,738,42	
		$ 5,338,685.84	
		5,169,942.73	
	2)	$10,508,628.57	
Average Capital for year 1914		$ 5,254,314,28	
		.07	Interest
	12)	$ 367,801,99	" year 1914
		$ 30,650.16	" 1 Month
		5	Months
Interest on Capital Aug. 1, 1914, to Dec. 31, 1914			$135,250.80

Receipts from Tenants August 1, 1914, to Dec. 31, 1914,—$10,694.08
$153,250.80—$10,694,08=$142,556.72 x 18,6887%—$26,642.00

x This amount does not include Van Buren Street Real Estate.

509

STATEMENT SHOWING HOW
PROPORTION OF "INTEREST ON CAPITAL INVESTED
IN BUSINESS" IS ASCERTAINED FOR 1915

	January 1, 1915	January 1, 1916
Cash in Bank and on Hand	$ 451,999,97	$ 822,429,94
Accounts Receivable	789,939.02	828,917.5[illegible]
Claims	685.13	18,219,72
Merchandise & Supplies on Hand	2,648,677,42	3,057,298,87
Advances for Raw Material	62,009.74	77,135.21
Real Estate & Buildings	949,083,51	11,153,324,05
Machinery & Equipment	440,301,84	502,793.11
Power Plant	80,851.01	80,928.70
Office Fixtures	35,272.01	41,943.65
Motor Trucks	14,071.36	17,697.56
Less Accounts Payable	*32,466.75*	*176,882.10*
	$5,440,424,26	$ 6,423,806.05
Less Depreciation	101,738,42	198,127.57
	$5,338,685,84	$ 6,225,678,48
		5,338,685.84
		2) $11,564,364,32
Average Capital for year 1915		$ 5,782,182.16
Interest on Capital for year 1915 at		7% $404,752.75

Receipts from Tenants year 1915—$21,607.22
$404,752,75—$21,607.22 = $383,145,53 x 20.37079% = $78,049.77

x This amount does not include Van Buren St. Real Estate.

510 STATEMENT SHOWING HOW PROPORTION OF "INTEREST ON CAPITAL INVESTED IN BUSINESS" IS ASCERTAINED FOR 1916

	January 1, 1916,	January 1, 1917.
Cash in Bank and on Hand	$ 822,429,94	$ 752,447.02
Accounts Receivable	828,917,34	1,089,353.18
Merchandise & Supplies on hand	3,057,298,87	3,042,362,51
Advances for Raw Material	77,135,21	117,165,37
xReal Estate & Buildings	1,153,324,05	910,858,68
Machinery & Equipment	502,793,11	516,167,78
Power Plant	80,928,70	80,964,48
Office fixtures	41,943.65	50,404,19
Motor Trucks	17,697,56	20,421,49
Less Accounts Payable	*176,882.10*	*49,320.54*
	$6,423,806,05	$ 6,602,733.94
Less Depreciation	198,127,57	285,483.76
	$6,225,678,48	$ 6,317,250,18
		6,225,678,48
		2) $12,542,928,66
Average Capital for year 1916		$ 6,271,464.33
Interest on Capital for year 1916 at		7% $439,002.50

Receipts from Tenants yar 1916—$19,102,65

$439.002.50—$19,102.65=$419,899,85 x 17.2101%=$ 72,265,18

x This amount does not include Van Buren Street Real Estate

511 STATEMENT SHOWING HOW PROPORTION OF "INTEREST ON CAPITAL INVESTED IN BUSINESS" IS ASCERTAINED FOR 1917

	January 1, 1917,	January 1, 1918	
Cash in Bank and on Hand	$ 752,447.02	$ 1,177,392.45	
Accounts Receivable	1,089,535.18	1,215,566.50	
Claims	71,727.80	35,684.25	
Merchandise & Supplies on hand	3,042,362.51	2,796,788,77	
Advances for Raw Material	117,165.37	276,041,93	
Real Estate & Buildings	910,858,68	884,924.16	
Machinery & Equipment	516,167,76	719,533,86	
Power Plant	80,964.48	84,854,49	
Office Fixtures	50,404,19	51,029.34	
Motor Trucks	20,421.49	27,519.24	
U. S. Liberty Bonds		693,791.00	
Less Accounts Payable	*49,320.54*	*49,946.12*	
	$6,602,733.94	$ 7,913,179.87	
Less Depreciation	285,483,76	375,155,85	
	$6,317,250,18	$ 7,538,024,02	
		6,317,250,18	
		2) 13,855,274,20	
Average Capital for year 1917		$ 6,927,637,10	
Interest on Capital for year 1917 at		7%	$484,934.60
Receipts from Tenants year 1917		$14,132.26	
Interest on Liberty Bonds 1917		1,050.00	
		$15,182.26	

$484,934.60—$15,182.26=$469,752.34 x 15.2740%=$71,749,97

x This amount does not include Van Buren St. Real Estate.

512 STATEMENT SHOWING HOW
PROPORTION OF "INTEREST ON CAPITAL INVESTED
IN BUSINESS" IS ASCERTAINED FOR 1918

	January 1, 1918	From Jan. 1, 1918, to Aug. 24, 1918 both dates inclusive.
Cash in Bank and on Hand	$1,177,392.45	
Accounts Receivable	1,215,566.50	
Claims	35,684.25	
Merchandise & Supplies on Hand	2,796,788.77	
Advances for Raw Material	276,041.93	
Real Estate & Buildings	884,924.16	
Machinery & Equipment	719,533.86	
Power Plant	84,854.49	
Office Fixtures	51,029.34	
Motor Trucks	27,519.24	
U. S. Liberty Bonds	693,791.00	
Less Accounts Payable	*49,946.12*	
	$7,913,179.87	
Less Depreciation	375,155.85	
	$7,538,024.02	
		.07 Interest 1918
	12)527,661.6814	" for year
	$ 43,971.80	" " 1 Month
		7 Mos 24 days
Interest on Capital for mos., 24 days of yar 1918		$342,980.04
Receipts from Tenants Jan. 1, 1918 to Aug 31 1918	$ 3,927.94	
Interest on Liberty Bonds	13,107.53—	
	$ 17,035.47	

$342,980.04— $17,035.47 = $325,944.57 x 15.1778% = $49,471.21

x This amount does not include Van Buren St. Real Estate.

513 STATEMENT SHOWING TAXES CHARGED
TO
WRIGLEY'S DOUBLEMINT
FOR 1917

The net income dclared by us in the year 1917 was	$4,171,336.91
the profit made on Doublemint was	459,873.15
Leaving a net income after deduction of the profit on Doublemint of	$3,711,463.76
On this letter amount the Federal income and war excess profits tax would be	$1,075,682.43
See Appendix "A"	
Whereas we paid as per Appendix "B"	$1,362,643.26
The Federal Income and war excess profits on our net Income after excluding the profits on Doublemint in enjoined wrappers would be as shown above	$1,075,682.43
A difference chargeable to Doublemint for taxes of	$ 286,960.83

APPENDIX A

Profit declared for 1917 on whole business							$4,171,336,91
Less profit made on Doublemint before deduction of taxes							459,873,15
Net Income for taxable year 1917 (after taking off profits on Wrigley's Doublemint)							$3,711,463,76
	Amount of Income in each class	Deduction	Balance subject to tax	Rate	Amount of Tax		
1st bracket	$1,648,546,46	$ 992,127,88	$656,418,58	20%	$131,287,71		
2nd bracket	2,198,061,95	1,648,546,46	549,515,49	25%	137,378,87		
3rd bracket	2,747,577,44	2,198,061,95	549,515,49	35%	192,330,42		
4th bracket	3,626,802,22	2,747,577,44	879.224,78	45%	395,651,15		
5th bracket	3.711,463,76	3,626,802,22	84,661,54	60%	50,796,92		
Total War excess profit tax					$907,441,07		
Net Income as above Less excess profit tax						$3,711,463,76 709,441,07	
6% income tax on total Federal Income and excess profit tax						$2,804,022,69	168,241,36
							$1,075,682,43

APPENDIX B.

Income tax statement for 1917 as rendered on our whole business including Doublemint.

Net Income declared $4,171,336,91

	Amount of Income in each class	Deduction	Balance Subject to tax	Rate	Amount of tax		
1st bracket	$1,648,546,46	$ 992,127,88	$656,418,58	20%	$ 131,283,71		
2nd bracket	2,198,061,95	1,648,546,46	549,515,49	25%	137,378,87		
3rd bracket	2,747,577,44	2,198,061,95	549,515,49	35%	192,330,42		
4th bracket	3,626,802,22	2,747,577,44	879,224,78	45%	395,651,15		
5th bracket	4,171,336,91	3,626,802,22	544.534,69	60%	326,720,81		
Total War excess profit tax					$1,183,364,96		
Return of Corporation Income Tax					$4,171,336,91		
Net income as above					1,183,364,96		
Less excess profits tax					$2,987,971,95	179,278,30	
6% income tax on							
Total Federal Income and excess profit tax						$1,362,643,26	

515 STATEMENT SHOWING ESTIMATED TAXES CHARGEABLE TO WRIGLEY'S DOUBLEMINT FOR

the period Jan 1st to August 24th 1918 both dates inclusive.

The profit and Loss Statement showing a profit on Doublemint of $459,541,34

The Normal Income and War Excess Profits Tax based on the September 1916 Act to increase the revenue, and for other purposes; and the War Revenue Bill enacted October 3, 1917; would amount to $286,753.79

made up as follows;—

Amount of Profit	$459,541.34	
60% War Excess Profits Tax	275,724,80	275,724,80
	183,816,54	
6% Normal Income Tax on balance		11,028,99
		$286,753,79

NOTE: We have deducted Taxes upon the assumption that the Doubleming profits were the last, i. e. upon the supposition that the profits do not belong to us.

However if we ignore the profits on Doublemint as though not earned we are already in the 60% bracket (class or peak) and, therefore, the earnings from Doublemint would be in that bracket.

516 SUMMARY OF DOUBLEMINT PROFIT AND LOSS STATEMENT

Losses		Profits
July 28, 1914 to Dec. 31, 1914 both dates inclusive	$301,580,02	
Year 1915	212,249.94	
Year 1916	18,020,69	
Year 1917		$172,912,32
Jan 1, 1918 to Aug 24, 1918 both dates inclusive		172,787,55
	$531,850.65	$345,699,87
Loss July 28, 1914 to Aug. 24 1918 both dates inclusive		186,150,78
	$531,850.65	$531,850,65

NOTE: No deductions have been made for any cash donotions or subscriptions for public or War or Charitable purposes, which amount to approximately—$280,000,00 from July 1914 to August 24th 1918.

(Endorsed) Filed Jan. 7– 1925
John H. R. Jamar, Clerk

Part 2.

517 And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a certain Account of Wrigley Company, Part 2, in words and figures following to-wit:

518 WRIGLEY COMPANY'S ACCOUNT: Part 2.

* * * No. 488 * * *

Account of Wrigley Company.

Filed Jan. 7, 1925, John H. R. Jamar, Clerk.

519 * * * No. 488 * * *

Filed Dec. 10, 1918, C. B. M., Master.

Filed Jan. 7, 1925, John H. R. Jamar, Clerk.

Without waiving any of the objections heretofore filed in connection with its account, and hereby reserving and

assisting on all objections already made by plaintiff, and with the further objection and reservation that the attached account relates largely to Doublemint gum wrapped in a different manner from that on which it is ordered to account, in that many of the individual sticks of gum sold since August 24, 1918, were wrapped in white paper, the Wm. Wrigley Jr. Company, the above named plaintiff, herewith tenders a statement covering all its sales of its Doublemint gum wrapped in green waxed paper and with an exterior counter-band substantially the same as that covered by the statement heretofore filed by plaintiff here, and the plaintiff says that it verily believes, that the statement
520 hereto attached is a correct in debit and credit form of all such Doublemint packages to the date hereof; and plaintiff says that so far as it knows or is able to ascertain none of said packaged were ever sold or bought as the product of the L. P. Larson Jr. Company, but that all were sold and bought exclusively as the product of the Wm. Wrigley Jr. Company.

WM. WRIGLEY JR. COMPANY
by EDWARD W. ECKERLY,
Vice Pres.

State of Illinois }
County of Cook } ss.

EDWARD W. ECKERLY, being first duly sworn on oath deposes and says that he is the Vice President of the Wm. Wrigley Jr. Company, plaintiff in the above cause; that he is familiar with the attached account and that according to the best knowledge and belief of this deponent, the said account fully and correctly shows all matters therein purported to be shown.

EDWARD W. ECKERLY

Subscribed and sworn to before me, a Notary Public in and for the said Cook County, this 10th day of December, 1918.

I. V. CURRAN
Notary Public.

(Seal)

521

PROFIT AND LOSS STATEMENT
OF
WRIGLEY'S DOUBLEMINT
AUGUST 25th, 1918 to October 4th, 1918
Both dates inclusive

DEBITS		CREDITS	
Manufacturing cost Chgo. & Bklyn. Fcty; 586,352½ boxes @ .2498121c	$146,477.95	Sales; 586,352½ Boxes	$316,269.31
Overhead; based on proportion of Doublemint sales to all sales 19.8089% of $165,202.76	32,724.85		
Advertising chargeable to Doublemint	30,709.51		
Trade Discounts	3,005.19		
Proportion of interest on capital invested in business	10,974.02		
Proportion of amount paid for U. P. S. Coupons	13,339.02		
Proportionate contingent liability for unredeemed Doublemint U. P. S. Coupons based on Doublemint packages shipped as compared with total number of packages shipped bearing U. P. S. Coupons	6,840.39		
*Income & War Excess Profits Tax	45,051.79		
PROFIT	27,146.59		
	$316,269.31		$316,269.31

*Throughout this supplemental statement we have deducted taxes upon the same basis as in the preceeding statement filed herein.

SUMMARY OF SALES
of
WRIGLEY'S DOUBLEMINT
From August 25th, 1918 to October 4th, 1918 both dates inclusive.

Period	*U. S. S. (Col. 1) Boxes	*U. S. S. (Col. 2) Sales Amount	FOREIGN SALES (Col. 3) Boxes	FOREIGN SALES (Col. 4) Sales Amount	(Col. 1 + Col. 3) Total Boxes	(Col. 2 + Col. 4) Total Amount
Aug. 25th to Oct. 4th, 1918	527,900½	$289,465.27	58,452	$26,804.04	586,352½	$316,269.31

*By the "U. S. A." the territory Oregon to Florida and California to Maine is designated.

NOTE: Sales of Wrigley's Doublemint single stick gum sold in Vending Machines—the package and dress differing from those covered by issue and decree—are not understood to be subject to accounting.

523 STATEMENT OF

DISPOSITION OF WRIGLEY'S DOUBLEMINT

Aug. 25th to Oct. 4th, 1918 both dates inclusive.

BOXES

DATE	Sold in U.S.A. & Foreign Countries	Given Away	Returned to Kettles	From Factory to Shipping Dept.
1918				
Aug. 25th to Oct. 4th both dates incl.	586,352½	805½	169	587,327

524 STATEMENT OF

Percentage of amount of Doublemint sales to amount of all sales from August 25, 1918 to October 4, 1918 both dates inclusive

(Col. 1)	(Col. 2)	(Col. 3)
Total of all sales	Doublemint Sales	% of Doublemint to all Sales
$ 1,596, 604. 37	$ 316, 269. 31	19.8089%

525 STATEMENT SHOWING HOW
"INTEREST ON PROPORTION OF CAPITAL INVESTED IN
DOUBLEMINT BUSINESS" IS ASCERTAINED.

From Aug. 26, 1918 to Oct. 4, 1918, inclusive.

	January 1, 1918.	
Cash in Bank and on Hand	$1,177,392.45	
Accounts Receivable	1,215,566.50	
Claims	35,684.25	
Merchandise & Supplies on Hand	2,796,788.77	
Advances for Raw Material	276,041.93	
xReal Estate & Buildings	884,924.16	
Machinery & Equipment	719,533.86	
Power Plant	84,854.49	
Office Fixtures	51,029.34	
Motor Trucks	27,519.24	
U. S. Liberty Bonds	693,791.00	
Less Accounts Payable	*49,946.12*	
	$7,913,179.87	
Less Depreciation	379,155.85	
	$7,538,024.02	
	07	Interest
12)	$ 527,661.6814	" for year 1918
	$ 43,971.80	" 1 month
	40	Days

Interest on Capital from Aug. 26, 1918 to Oct. 4 1918 Inclusive	$58,629.07
Receipts from Tenants Sept. 1, 1918 to Oct 4, 1918	$ 613.55
Interest on Liberty Bonds Sept. 1, 1918 to Oct 4, 1918	5,661.29
	$6,274.84

$58,629.07—$6,274.84—$52,354.23x 20,9611%—$10,974.02

x This amount does not include Van Buren Street Real Estate.

526

COMPARATIVE STATEMENT OF U. P. S. COUPONS ISSUED WITH DOUBLEMINT GUM
SHOWING REDEMPTION COST AND CONTINGENT LIABILITY
Aug. 25th, to Oct. 4th, 1918, both dates inclusive.

	(Col. 1) Total No. of boxes of all brands with U. P. S. Coupons	(Col. 2) % which Doublemint with U. P. S. coupons bears to total of all coupons issued	(Col. 3) Total No. of boxes of Doublemint shipped with U. P. S. Coupons	(Col. 4) Total redeemable value of U. P. S. coupons issued with all brands	(Col. 5) Total redeemable value of U. P. S. coupons issued with Doublemint using % in Col. 2 of Col. 4	(Col. 6) Actual amount paid for redemption of coupons of all brands	(Col. 7) Proportion of amt. actually paid for redemption of Doublemint Coupons using % in Col. 2 of Col. 6	(Col. 8) % of U. P. S. coupons on Doublemint redeemed as to quantity issued with Doublemint Col. 7 as to Col. 5	(Col. 9) Amounts chargeable for contingent liability to cover future redemptions at 50% of actual amt. issued on Doublemint (Col. 5) less Amt. actually redeemed (Col. 7)
Aug. 25th to Oct. 4th, 1918	2,637,476	20.0459%	528,706	$201,332.05	$40,358.82	$66,542.38	$13,339.02	33.051%	$6,840.39

527 STATEMENT SHOWING ESTIMATED TAXES CHARGEABLE TO WRIGLEY'S DOUBLEMINT

August 25th 1918, to October 4th, 1918

Both dates inclusive

The profit and Loss Statements shows a profit on Doublemint of	$72,198.38
The Normal Income and War Excess Profits Tax based on the September 1916 Act to increase the revenue and for other purposes; and the War Revenue Bill enacted October the 3rd 1917, would amount to	45,051.79

made up as follows:

Amount of profit	$72,198.38	
60% War Excess Profits Tax	43,319.03	$43,319.03
6% Normal Income Tax on balance of	$28,879.35	1,732.76
		$45,051.79

528

FINAL SUMMARY
of
DOUBLEMINT PROFIT AND LOSS STATEMENTS
July 28th, 1914, to Nov. 12, 1918 both dates inclusive

		LOSS	PROFITS
July 28, 1914 to Dec. 31, 1914 both dates incl.		$301,580.02	
Jan. 1, 1915 to Dec. 31, 1915 both dates incl.		212,249.94	
Jan. 1, 1916 to Dec. 31, 1916 both dates incl.		18,020.69	
Jan. 1, 1917 to Dec. 31, 1917 both dates incl.			$172,912.32
Jan. 1st, 1918 to Aug. 24th 1918 both dates incl.			172,787.55
Aug. 25th 1918 to Oct 4th 1918 both dates incl			27,146.59
Oct 5th 1918 to Nov. 12, 1918 both dates incl.			7,416.14
		$531,850.65	$380,262.60
LOSS			151,588.05
		$531,850.65	$531,850.65
Loss brought down		$151,588,05	
Proportion of Loss on Merchandise sold with Doublemint from Jan. 2, 1915 To Oct, 4th, 1918 incl.		38,166.27	
Doublemint proportion of interest on Capital invested in Patents & Patent Rights	$ 46,685.42		
Doublemint proportion of depreciation on Patents & Patent Rights	64,267.43		
	$110,952.85		
Less Adjustment of Excess & Income Taxes for 1917-1918.	14,468.87	96,483.98	
NET LOSS		$286,238.30	

529 STATEMENT SHOWING HOW AVERAGE WAS OBTAINED FOR CHARGING OVERHEAD ON DOUBLEMINT SALES FROM OCT. 5th to Nov 12, 1918
Both dates inclusive

(Col. 1) Total of all Sales Oct. 5th to Nov. 12, 1918 both dates incl.	(Col. 2) Sales of Doublemint Oct. 5th to Nov. 12, 1918 both dates incl.	(Col. 3) Percentage of overhead to be charged on Doublemint sales between Oct 5th & Nov. 12th, 1918 both dates incl. Col. 2 of Col. 1
$1,726,648.88	$43,914.75	2.54335%

530 STATEMENT SHOWING ESTIMATED TAXES CHARGEABLE TO WRIGLEY'S DOUBLEMINT
Oct. 5th, 1918 to November 12th, 1918
Both dates inclusive

The Profit & Loss Statement shows a profit on Doublemint of $19,723.77

The Normal Income and War Excess Profits Tax based on the September, 1916 Act to increase the Revenue, and for other purposes; and the War Revenue Bill enacted Oct. 3, 1917 would amount to 12,307.63

made up as follows;

Amount of Profit	$19,723.77	
60% War Excess Profits Tax	11,834.26	$11,834.26
	$ 7,889.51	
6% Normal Tax on balance	473.37	473.37
		$12,307.63

531 PROFIT AND LOSS STATEMENT
of
WRIGLEY'S DOUBLEMINT
October 5th, 1918 * to November 12th, 1918
Both dates inclusive

Debits			Credits
Manufacturing Cost		Sales 93,505	
93,505 Boxes @ .2498121c**	$23,358.68	Boxes	$43,914.75
Overhead; based on proportion of all Sales of Oct. 5, 1918-Nov. 12, 1918 to Sales of Doublemint Oct. 5, 1918 to Nov. 12, 1918 incl. 2,5433% of $32,724.85	832.30		
***Advertising			
Income and War Excess Profits Tax	12,307.63		
NET PROFIT	7,416.14		
	$43,914.75		$43,914.75

NOTE:* On Oct. 5th 1918 we began to sell only pink waxed wrapped Doublemint Gum in this Country. We exported since Oct. 5th and up to Nov. 12, 1918 93,505 boxes of Doublemint wrapped with green waxed paper the paper being purchased and in stock prior to July 1918. On Nov. 12, 1918 we abandoned the green waxed paper everywhere.

** Based on actual cost to Nov. 1st, 1918 and estimated on same basis thereafter.

*** We have not deducted any amount for advertising as the bills for this item will not be received until the end of December, 1918 or the beginning of 1919.
Of the total number of boxes accounted for in this supplemental statement, a large number of boxes had individual sticks wrapped in white paper. Will furnish complete list of boxes later.

532 PROFIT AND LOSS STATEMENT
OF
MERCHANDISE SOLD WITH DOUBLEMINT
From Jan. 2, 1915 to Oct. 4, 1918 both dates inclusive

LOSS		PROFIT
Jan. 2, 1915 to Dec. 31, 1915 both dates incl.	$21,962.16	
Jan. 2, 1916 to Sept. 30, 1916 both dates incl.	12,510.60	
Oct. 1, 1916 to Dec. 31, 1916 both dates incl.	6,951.18	
Jan. 2, 1917 to Apr. 30, 1917 both dates incl.	10,711.05	
May 1, 1917 to Oct. 31, 1917 both dates incl. .		$ 6,090.84
Nov. 1, 1917 to Dec. 31, 1917 both dates incl.	888.55	
Jan. 2, 1918 to Aug. 24, 1918 both dates incl.		7,049.44
Aug. 26, 1918 to Oct. 4, 1918 both dates incl.		1,716.99
	$53,023.54	$14,857.27
LOSS Jan. 2, 1915 to Oct. 4, 1918 both dates incl.		38,166.27
	$53,023.54	$53,023.54

533 SUMMARY OF DOUBLEMINT'S
INTEREST AND DEPRECIATION ON
PATENTS AND PATENT RIGHTS.

1914	(5 Mos)	Interest	$5,650.26		
		Depreciation	6,870.84	$12,521.10	
1915		Interest	15,098.35		
		Depreciation	17,974.23	33,072.58	
1916		Interest	11,692.75		
		Depreciation	15,185.38	26,878.13	
1917		Interest	9,433.94		
		Depreciation	13,477.06	22,911.00	
1918	(7 Mos.)	Interest	3,515.45		
	24 days)	Depreciation	8,704.91	12,220.36	
1918	(8/26 to				
	10/4 incl)	Interest	1,294.67		
		Depreciation	2,055.01	3,349.68	$110,952.85

LESS ADJUSTMENT OF EXCESS
AND INCOME TAXES—1917 and 1918—
CHARGEABLE TO DOUBLEMINT

1917 Int. & Dep.	$22,911.00	60% $9,164.40	6% $8,614.54	
1918 Int. & Dep. (7 Mos. 24 days)	12,220,36	60% 4,888.14	6% 4,594.85	
1918 Int. & Dep.	3,349.68	—60%—1,339.87	—6%— 1,258.48	14,468.87
	38481.04			$96,483.98

DOUBLEMINT'S PROPORTION
OF INTEREST ON CAPITAL INVESTED IN
PATENTS AND PATENT RIGHTS.

1914
5 Months

$1,147.058.84@ 7%—$80,294.11—1 year
33,455.88—5 mos.

$33,455.88 x 16.8887% ..... $ 5,650.26

1915

$1,058,823.55 @7%—$74,117.65
$74,117.65 x 20.37079% 15,098.35

1916

$ 970,588.26@7%—$67,941.18
$67,941.18 x 17.2101% 11,692.75

1917

$ 882,352.97@7%—$61,764.70
$61,764.70 x 15.2740% 9,433.94

1918
7 months 24 days

$ 794,117.68@7%—$55,588.24—1 year
$23.161.77—7 mos 24 days
$23,161.77 x 15.1778% 3,515.45

534 DOUBLEMINT'S PROPORTION
DEPRECIATION ON PATENTS AND PATENT RIGHTS.

1914	Depreciation for year $88,235.29			
(5 Mos)	Depreciation for 5 Mos.	$36,764.70 @	18,6887%	$ 6,870.84
1915	Depreciation	88,235.29 @	20,37079%	17,974.23
1916	Depreciation	88,235.29 @	17,2101%	15,185.38
1917	Depreciation	88,235.29 @	15.2740%	13,477.06
1918	Depreciation for year $88,235.29			
(7 Mo 24 days)	" for 7 Mos.24 days	57,352.93 @	15,1778%	8,704.91
1918	Depreciation for year $88,235.29			
(40 days)	" for 40 days	9,803.92 @	20.9611%	2,055.01
8/26 to 10/4 incl.		$368,627.42		$64,267.43

Filed, endorsed
Jan. 7 1925
John H. R. Jamar
Clerk.

Wrigley Account, Part 3.

535 And on to-wit: the 7th day of January, A. D. 1925 there was filed in the Clerk's office of said court a certain Statement of Account, in words and figures following to-wit:

536 * * * No. 488 * * *

For the purpose of clarifying and supplementing the statement of accounts filed before the Master on December 3 and 10, 1918, respectively, and without waiving any of the objections heretofore filed in connection with said account, and hereby reserving and insisting upon all objections already made by the plaintiff, the Wm. Wrigley Jr. Company herewith tenders a supplemental statement of account; and says that it verily believes that the statement hereto attached is correct; and plaintiff says that so far as it knows, or is able to ascertain, none of the packages referred to in this or in the statement of accounts heretofore filed, was ever sold or bought as and for the produce of the L. P. Larson Jr.
537 Company, but that all were sold and bought exclusively as the product of the Wm. Wrigley Jr. Company.

WM. WRIGLEY JR. COMPANY
By EDWARD W. ECKERLY,
Vice-President.

State of Illinois } ss:
County of Cook }

EDWARD W. ECKERLY, being first duly sworn on oath deposes and says, that he is the Vice-President of the Wm. Wrigley Jr. Company, plaintiff in the above cause; that he is familiar with the attached account, and that according to the best knowledge and belief of this deponent, said account fully and correctly shows all matters therein purported to be shown.

EDWARD W. ECKERLY.

Subscribed and sworn to before me a Notary Public in and for the said Cook County, this 5th day of March, 1919.

I. V. CURRAN,
(L. S.) *Notary Public.*

ADJUSTMENT OF ACCOUNTS OF PROFIT AND LOSS STATEMENTS OF

538 WRIGLEY'S DOUBLEMINT

JULY 28, 1914 TO NOVEMBER 12, 1918 INCLUSIVE

July 28, 1914 to December 31, 1914 inclusive

		DR.	CR.
1.	Rental charged to Shipping Dept. $4,375.00 x 16.1927%		$ 708.43
2.	Items charged to manufacturing cost and not credited to Overhead (Brooklyn & Toronto) 16.1927% of $14,737.02		2,386.32
3.	Overcharge in Advertising charged against Doublemint		2,810.44
4.	Additional interest on capital invested in patents, patent rights on account of figuring same at 16.8887% instead of $18.6887%	$ 602.21	
5.	Additional charge for printing U. P. S. Coupons and express charges on same; 23.83604% of $929.60	221.58	

Jan. 1, 1915 to December 31, 1915 inclusive

	Freight and express charges paid in 1915 reimbursed to us and credited to Surplus account in 1916		$12,671.81	
	Amount taken as overhead in statement of Profit & Loss 1/1/15 to 12/31/15	$ 998,322.22		
6.	Less correction above	12,671.81		
	Corrected Overhead	$ 985,650.41		
	Doublemint's proportion based on proportion of Doublemint sales to all sales — 18.692% of $985,650.41 =	184,237.77		
	Amount actually charged	186,606.72		
	Leaving a credit to Doublemint of			2,368.95
7.	Rental chrged to Shipping Dept. $10,500.00 x 18.692%			1,962.66
8.	Depreciation on Buildings $32,924.50 x 21.8671%		7,199.63	
	TOTALS FORWARDED.....		$ 8,023.42	$10,236.80

No. 32

No. 2

539 Jan. 1, 1915 to December 31, 1915 inclusive

				DR.	CR.
	TOTALS BROUGHT FORWARD			$ 8,023.42	$10,236.80
9.	Items charged to Manufacturing Cost and not credited to Overhead (Bklyn. & Toronto) 18.6920% of $37,056.21				6,926.55
10.	Maintenance of Toronto Bldg. not used as a credit to Overhead; 18.6920% of $2,247.51 =				420.10
11.	Overcharge in Advertising charged against Doublemint				1,966.02
12.	Inventory at beginning of 1915 of Shipping Boxes omitted by factory in figuring cost; 21.8671% of $14,126.76			3,089.11	
13.	Additional charge for printing U. P. S. coupons and freight and express charges on same; 21.954691% of $387.46			85.07	

Jan. 1, 1916 to December 31, 1916 inclusive

14.	Items charged to Manufacturing Cost and not credited to Overhead (Brooklyn) 16.4229% of $56,296.93				9,245.59
	Freight charges paid in 1916 reimbursed to us and credited to Surplus account in 1917		$19,154.55		
	Difference in exchange credited to Surplus account in 1917		219.14		
15.	Expense items charged in 1916 reimbursed to us and credited to Surplus account in 1917		882.25		
	Amount taken as overhead in statement of Profit & Loss 1/1/16 to 12/31/16–	$1,308,576.90	$20,255.94		
	Less correction above	20,255.94			
	Corrected overhead	$1,288,320.96			
	Doublemint's proportion based on proportion of Doublemint sales to all sales;				
	16.4229% of $1,288,320.96	211,579.65			
	Amt. actually charged	214,906.28			
	Leaving a credit of				3,326.63
16.	Additional charge for printing U. P. S. Coupons and freight and express charges on same; 19.078834% of $6,170.82			1,177.32	
17.	Rental charged to Shipping Dept. $12,630.72 x 16.4229%				2,074.33
18.	Credit on interest charged on Assets sold in 1916				3,613.66
19.	Depreciation on buildings $31,795.91 x 19.1754%			6,096.99	
20.	Interest amount credited to Overhead in statement 1/1/16 to 12/31/16		$12,408.03		
	Should be		11,652.28		
	16.4229% of		$ 755.75	124.12	
	TOTALS FORWARDED			$18,596.03	$37,809.68

No. 33

540 No. 3

Jan. 1, 1917 to Dec. 31, 1917 inclusive

				DR.	CR.
	TOTALS BROUGHT FORWARD			$18,596.03	$37,809.68
	War excise tax on sales not charged in Profit & Loss Statements 1/1/17 to 12/31/17		Dr. $66,166.09		
	Less interest not credited in Profit & Loss Statements 1/1/17 to 12/31/17		Cr. 14,404.02		
			Dr. $51,762.07		
	Amount taken as overhead in statement of Profit &				
21.	Loss 1/1/17 to 12/31/17	$1,576,438.55			
	Add correction above	51,762.07			
		$1,628,200.62			
	Doublemint's proportion based on proportion of Doublemint sales to all sales; 14.9424% of $1,628,200.62 =	243,292.25			
	Amt. actually charged	235,557.75			
	Leaving a debit of		7,734.50		
22.	Doublemint Advertising New York & Brooklyn walls for 1917		8,506.37		
23.	Loss on James A. Brady Co. (cancelation of lease) $88,696.49 x 16.0634%		14,247.67		
24.	Depreciation on Buildings $28,909.39 x 16.0634%		4,643.83		
25.	Interest on additional invested capital for 1917; $29,109.10 7% = $2,037.64 x 15.2740%		311.23		
26.	Insurance not charged to Doublemint in figuring manufacturing cost		584.16		
27.	Additional charge for printing U. P. S. coupons and freight and express charges on same; 16.4797% of $11,874.88		1,956.95		
			Dr. $37,984.71		
28.	Less rental charged to Shipping Dept. $13,890.00 x 14.9424%	$2,075.50			
29.	Less new Cafeteria & Restaurant and conditioning system; $53,388.78 x 16.0634% charged to Expense—now charged to Capital Acct.	8,576.05			
30.	Less depreciation adjustment on Machinery & Fixtures $4,829.43 x 16.0634%—	775.77			
31.	Items charged to Manufacturing cost and not credited to Overhead (Brooklyn) 14.9424% of $64,645.97	9,659.66	21,086.98		
			Dr. $16,897.73	16,897.73	
	Add loss on Mdse. sold with Doublemint 1/2/17 to 4/30/17		10,711.05		
	Add loss on Mdse. sold with Doublemint 11/1/17 to 12/31/17		888.55		
32.			$28,497.33		
	Less Profit on Mdse. sold with Doublemint 5/1/17 to 10/31/17		6,090.84		
	Amount on which to figure corrected Income & Excess profits tax		22,406.49		
	60% of $22,406.49 =		13,443.89		13,443.89
		6% of	$8,962.60		537.76
	TOTALS FORWARDED			$35,493.76	$51,791.33

No. 34

No. 4

541 Jan. 1, 1918 to August 24, 1918 inclusive

				DR.	CR.
	TOTALS BROUGHT FORWARD			$35,493.76	$51,791.33
	War excise tax on sales (debit) omitted in Profit & Loss Statement 1/1/18 to 8/24/18		$220,511.79		
	Less interest received not credited to Overhead in Profit & Loss Statement 1/1/18 to 8/24/18		17,866.29		
		(debit)	$202,645.50		
33.	Amount taken as overhead in statement of Profit & Loss 1/1/18 to 8/24/18	$1,067,505.99			
	Add correction above	202,645.50			
		1,270,151.49			
	Doublemint's proportion based on proportion of Doublemint sales to all sales:				
	14.9042% of $1,270,151.49=	189,305.92			
	Amount actually charged	159,103.21			
	Leaving a debit of		30,202.71		
34.	Loss by fire at Belize Aug. 17, 1918 $11.202.57 x 15.1778%		1,700.30		
35.	Additional interest on capital invested in Patents & Patent Rights		1,893.52		
36.	Depreciation on Buildings; $17,646.55 x 15.1907%		2,680.63		
37.	Interest on additional invested capital; $58,218.81 @7%= $2,648.96 x 15.1778%		402.05		
38.	Advertising charges omitted from statements		6,368.36		
39.	Insurance not charged to Doublemint in figuring manufacturing cost		814.65		
40.	Additional charge for printing U. P. S. Coupons and freight and express charges on same; 17.085% of $7,832.18		1,338.13		
			$45,400.35		
	Less rental charged to Shipping Dept.				
41.	$10,325.92 x 14.9042%	$1,538.99			
	Garage rental $840.00 x 15.1907%	127.60			
42.	Items charged to Manufacturing cost and not credited to Overhead (Brooklyn) 14.9042% of $49,188.69	7,331.18	8,997.77		
			$36,402.58	36,402.58	
	Add loss on Mdse. sold with Doublemint 1/1/18 to 8/24/18		7,049.44		
43.	Amt. on which to figure corrected Income & Excess Profits tax		$43,452.02		
	60% of $43,452.02 =		26,071.21		26,071.21
	6% of		$17,380.81		1,042.85
	TOTALS FORWARDED			$71,896.34	$78,905.39

No. 35

542 August 25, 1918 to October 4, 1918 inclusive No. 5

			DR.	CR.
	TOTALS BROUGHT FORWARD		$71,896.34	$78,905.39
44.	Depreciation on Buildings $3,016.51 x 18.7016% (Dr.)	$564.13		
45.	Interest on additional invested capital $58,218.81 @ 7% $446.61 x 20.9611%	93.61		
46.	Additional charge for printing U. P. S. Coupons and freight and express charges on same; 20.0459% of $444.80	89.16		
	Dr.	$746.90		
47.	Less rental charged to Shipping Dept. $984.59 x 19.8089%	195.04		
		$ 551.86	551.86	
48.	Credit Profit on Mdse. sold with Doublemint 8/25/18 to 10/4/18	1,716.99		
	(credit)	$ 1,165.13		
49.	Adjustment of Income & Excess Profits Tax on Profit & Loss statement of 8/25/18 to 10/4/18 inc. 60% of $1,165.13 =	699.08	699.08	
	6% of	$ 466.05	27.96	
	October 5, 1918 to November 12, 1918 inclusive			
	Overhead Oct 5, 1918 to Nov. 12, 1918— $286,272.65			
50.	Doublemint's proportion based on proportion of Doublemint sales to all sales; 2.5433% of $286,272.65 =	$ 7,280.92		
	Amount actually charged	832.30		
	Leaving a debit of—	$ 6,448.62		
51.	Insurance not charged in figuring manufacturing cost of Doublemint	199.68		
		$6,648.30		
52.	Less items charged to Manufacturing cost (Brooklyn) and not credited to Overhead 19.8089% of $11,238.92	2,226.31		
		4,421.99	4,421.99	
53.	Adjustment of Income & Excess Profits tax on Profit & Loss statement of 10/5/18 to 11/12/18 inc. 60% of $4,421.99 = 2,653.19			2,653.19
	6% of $1,768.80 =			106.13
	Adjustment of Final Summary of Doublemint Profit & Loss Statement 7/28/14 to 11/12/18 inc.			
	Adjustment of Excess & Income Taxes 1917-1918 credited	$14,468.87		
	Should be	24,012.16		
	Difference			9,543.29
			$77,597.23	$91,208.00
	Additional profit on Doublemint accounting over the period of July 28, 1914 to Nov. 12, 1918 inc.		13,610.77	
			$91,208.00	$91,208.00

Corrections will be needed and made in order to meet the adjustments.

On Feb. 24, 1919, the revenue Act of 1918 became a law, and under it the heretofore estimated deductions for income and Excess Profits Tax for 1918 business, made on the accounts heretofore filed with the Master, will require correction.

No. 36

543 DOUBLEMINT'S PROPORTION OF DIFFERENCE BETWEEN ACTUAL COST OF CHICLE AND MARKET VALUE OF SAME WHEN USED.
August 1st, 1914 to September 30, 1918
both dates inclusive

	DEBIT
	$519,811.08.

No. 37

544 STATEMENT OF MANUFACTURING PROFIT ON MANUFACTURING COST OF ALL "DOUBLEMINT" HERETOFORE ACCOUNTED FOR HEREIN AT TEN PERCENT.

From July 28, 1914 to November 12, 1918 both dates inclusive, total manufacturing cost.	$3,792,582.33
	Dr.
10%	$ 379,258.23

No. 38

545 STATEMENT OF DONATIONS AND SUNDRY AMOUNTS PAID FOR ADVERTISING. A PROPORTION OF WHICH IS CHARGEABLE TO DOUBLEMINT.
Jan. 1, 1915 to Sept. 30, 1918 inclusive.

		DEBIT
Year 1915	18.6920% of $ 4,204.20 =	$ 785.85
Year 1916	16.4229% of 10,230.60 =	1,680.16
Year 1917	14.9424% of 28,840.63 =	4,309.48
Jan. 1, 1918 to Sept. 30, 1918 inc.	14.9042% of 103,373.40 =	15,406.98
AMOUNT CHARGEABLE TO DOUBLEMINT		$22,182.47

The percentages used in figuring above is the same as used in figuring overhead chargeable to Doublemint in the above period.

NO. 39

(Endorsed) Filed Jan. 7–1925 John H. R. Jamar, Clerk.

621 And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a copy of the Testimony taken before the master, pages 239-240 Vol. I, hereto follows in words and figures following to-wit:

622 If L. P. Larson Jr. Company will be liable to the tax, then no deduction should be made on account thereof, and the Wrigley Co. should be left to secure the refund from the Government.

Eighth: Do the 790,488 boxes of gum given away appear in the 'advertising' or other charges against the receipts account of Doublemint?

Respectfully submitted

CHARLES F. ALDRICH
FRANK F. REED"

The Master: Pursuant to the provision in the decree in reference to employing accountants to examine the books of the Wm. Wrigley Jr. Company, and on motion of counsel for the L. P. Larson Jr. Company, I do hereby appoint James Hall of Marwick, Mitchell, Peat & Company, a person having no interest in the questions in controversy between the parries, as such accountant, and will administer to him the oath as required in the decree and will cause to be administered a similar oath to any assistants in his office that may aid in his work.

Whereupon an adjournment was taken subject to notice.

At 5:30 o'clock p. m. on December 10, 1918, Wm. Wrigley Jr. Company filed a statement of transactions relating to its Doublemint gum from August 25, 1918, to October 4, 1918, inclusive also statement from Oct. 4 to Nov. 12, 1918 inclusive.

623 Thursday, December 19, 1818, 11 o'clock a. m.

Edward Gledhill who had been directed by Mr. Hall of Marwick, Mitchell, Peat & Company to proceed with the work laid out by Mr. Hall pursuant to his employment as accountant herein, appeared before the master and took the oath as prescribed in the decree preparatory to proceeding, with such work.

Wednesday, December 24, 1918, 10 o'clock a. m.

Met pursuant to agreement.

Present:

Messrs. Aldrich, Mayer, Lane.

Mr. Mayer: There are a few errors in the record, which I presume are typographical, to which I desire to call attention. On page 199 on the bottom of the page, Mr. Mayer is made to say, "I don't believe Your Honor has examined the year 1910, 1911 1912 and 1913, have you?" that discussion was with reference to certain exhibits, I think they were Larson Exhibits 10, 11, 12, and 13. In some inscrutable way those years 1910, 1911, 1912 and 1913 are all wrong because they should be 1914, 1915, 1916 and 1917. On page 199 in the answer of Mr. Wrigley, near the top of the page, October 14, is mentioned. It

665 And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a certain James Hall Report, in words and figures following to-wit:

667 JAMES HALL REPORT

Filed June 17, 1920.

In Re Wrigley vs. Larson

The report which follows deals with various subjects. They are presented in the following order:

1. General Statements, Explanations and Comments
2. Sales
3. Manufacturing Cost
4. Overhead
5. Advertising
6. Trade Discounts
7. U. P. S. Coupons
8. Premiums
9. Loss by Fire
10. Interest on Invested Capital
11. Depreciation of Patents
12. Income and Excess Profits

(Endorsed) Filed Jan. 7, 1925 John H. R. Jamar, Clerk.

668 U. S. A.

New York, 79 Wall Street
Boston, 148 State Street
Philadelphia, 1421 Chestnut Street

Cable Address
"Mawikmit"
For all Offices
Codes—Western
Union—A B C
5th Edition

New Orleans, Hibernia Bank Building
Pittsburgh, 248 Fourth Avenue
Chicago, 105 South La Salle Street
Milwaukee, Pabst Building
St. Louis, Federal Reserve Bank Building
Kansas City, Commerce Building
Detroit, Dime Savings Bank Building
Minneapolis, 115 South Fourth Street
Dallas, American Exchange Nat'l Bank Bldg
Salt Lake City, Walker Bank Building
Portland, Northwestern Bank Building
San Francisco, 310 California Street

Marwick, Mitchell, Peat & Co.

Accountants and Auditors

Canada

Montreal, 260 St. James Street
Tronto, Royal Bank Building
Winnipeg, Northern Crown Building
Moose Jaw, Walter Scott Block
Calgary, Canada Life Building
Vancouver, Standard Bank Building

105 South LaSalle Street
Chicago
June 17, 1920

Europe

London, Pinners Hall, Old Broad Street
Glasgow, 135 Buchanan Street
Paris, 5 Rue Daunou Pres L' Avenue de L'Opera

C. B. Morrison, Esq., Master in Chancery,
Chicago, Illinois.

Dear Sir:

Wrigley vs. Larson

In accordance with your instructions I am examining the books, accounts and records of the Wm. Wrigley Jr. Company, for the purpose of ascertaining the profit or loss on the sale of Doublemint Chewing Gum from the date on which that gum was first sold, July 28, 1914, to the date on which the plaintiff, Wm. Wrigley Jr., Company, ceased to wrap the Doublemint Gum in the dress enjoined by the court in the case of Wrigley and Larson.

I submit a preliminary report, both for the purpose of reporting on my examination to date and also to obtain further directions. This report is being made without my having verified the accounts of the Wm. Wrigley Jr., Company, in the sense that the term is used by accountants and auditors. I have previously reported to the Master that anything like a detailed verification of the account filed by the plaintiff will be a big and costly undertaking.

669 In Exhibit "A" "B" "C" and "D" are presented the following statements:

Exhibits

"A" Balance Sheet of the Wm. Wrigley, Jr., Company as at December 31, 1913

"B" Balance Sheet of the Wm. Wrigley, Jr. Company as at December 31, 1918

"C" Surplus Account of the Wm. Wrigley, Jr., Company for the five years ended December 31, 1918

"D" Comparative Statement of the Income and Profit and Loss Accounts of the Wm. Wrigley, Jr., Company for each of the five years ended December 31, 1918

Attention is here directed to the fact that the Wm. Wrigley, Jr., Company closes its books about the 18th of December in each year as of December 31. Consequently it is to be understood that in this report "December 31" is not intended to represent that date exactly, the term being used merely for convenience.

Exhibit "A" presents the Balance Sheet of the Wm. Wrigley, Jr., Company as at December 31, 1913, that date being the last time the books of the plaintiff were closed prior to the commencement of the manufacture and sale of the Doublemint gum; Exhibit "B" is a statement of the Balance Sheet of the plaintiff as at December 31, 1918, which is the first date on which the books of the Wm. Wrigley, Jr., Company were closed after the decree of the Court enjoining the wrapping of Doublemint in the infringing dress was entered. These two statements are presented primarily for the purpose of demonstrating that Exhibits "C" and "D" are full and true presentations of the transactions of the Wm. Wrigley, Jr., Company on profit and loss account. In other

670 words, Exhibit "C" starts with the surplus shown by the Balance Sheet at at December 31, 1913, (Exhibit "A") and finishes with the surplus shown by the Balance Sheet as at December 31, 1918 (Exhibit "B"). The "net income" for each year as shown by the detailed statement in Exhibit "D" is carried to the surplus account (Exhibit "C").

It is therefore to Exhibits "C" and "D" that reference must be made for the purpose of comparing the accounts filed by the plaintiff, before the Master, showing the profits or losses on Doublemint gum, with the accounts kept on the books of the Wm. Wrigley, Jr., Company showing how the profits or losses on the whole business are ascertained.

Perhaps the statement presented as Exhibit "C"—Surplus Account, of the Wm. Wrigley, Jr., Company for the five years ended December 31, 1918, calls for an explanation of the nature thereof. Briefly, it is made up of five elements, as follows:

1. Opening Surplus, or Surplus as at December 31, 1913, which is the difference between the assets and the liabilities plus the capital stock. It may be taken to be an accumulation of profits not distributed in the form of dividends.

2. The Net Income for each year is carried to this account.

3. Dividends, which are in this case distributions of profits are deducted.

4. Profits derived from the sale of capital assets are carried directly to this account, and not to the profit and loss account which is designed to show the profit or loss on actual trading operations in the ordinary course of business. For example, if a machine is sold at a profit such profit would be transferred to Surplus Account because selling machinery is not a transaction in the ordinary course of conducting the chewing gum business.

671 5. Profits or losses determined in a year subsequent to that in which such profits were made or losses incurred are carried directly to Surplus Account, because to throw such items into the Profit and Loss account for the year in which they were determined would result in that account not showing the actual profit or loss for that year. Such items should, however, be taken into consideration in the present accounting as profits or losses in the year in which they were made or incurred.

It will be seen that on Exhibit "D" comparative statement of the income and profit and loss accounts of the Wm. Wrigley, Jr., Company for each of the five years ended December 31, 1918, opposite each item there are remarks indicating the treatment thereof in the accounts filed before the Master by Wm. Wrigley, Jr. Company. It is thought that this will tend to make the report easier to understand.

The statements, Exhibits "A," "B," "C" and "D" are now submitted:

672 EXHIBIT "A"

BALANCE SHEET OF THE WM. WRIGLEY JR., COMPANY
As at December 31, 1913

ASSETS

Cash in Hand and at Banks:			
Cash in Hand			$ 1,500.00
In Chicago Banks			504,748.87
In New York Bank			21,000.00
In Boston Bank			5,000.00
In Toronto Bank			10,000.00
Total Cash in Hand and at Banks			542,248.87
Accounts Receivable			732,572.84
Notes Receivable			500.00
Claims			2,224.92
Inventories of Gum, Raw Materials, Merchandise and Supplies			2,620,729.91
Advances:			
Wm. Seatchard		$ 1,365.05	
Peon—Molina Concession		20,980.11	
J. E. Plummer		61,569.71	
Robert S. Boyd		47,727.79	
Wrigley's Ltd.		9,000.00	
		140,642.66	
Less:			
W. H. Wiley	$ 39.78		
V. E. Green	155.47		
C. E. Pooley	46.18		
Guatemala Concession	12,303.13	12,544.56	128,098.10
Real Estate and Buildings			935,502.55
Machinery and Equipment:			
Chicago Factory		247,238.19	
Toronto Factory		20,293.79	
New York Factory		83,620.60	351,152.58
Power Plant, Chicago Factory			79,032.48
Office Fixtures—Main Office, Chicago			32,452.97
Motor Trucks			14,071.36
Goodwill and Trade-marks			7,500,000.00
Total			$12,938,586.58

LIABILITIES

Accounts Payable		$ 68,643.85
Capital Stock:		
Common	$7,500,000.00	
Preferred	1,500,000.00	9,000,000.00
Surplus		3,869,942.73
Total		$12,938,586.58

673 BALANCE SHEET OF THE WM. WRIGLEY JR., COMPANY

As at December 31, 1918
After Revision

ASSETS

Cash in Hand and at Banks:		
Cash in Hand		$ 2,500.00
In Banks—General		710,213.95
In New York Bank—B. L. Atwater		101,712.40
In Boston Bank—Sterling P. Wiley		5,000.00
Total Cash in Hand and at Banks		819,426.35
Accounts Receivable		951,675.46
Notes Receivable		534,092.76
Claims		13,057.25
U. S. Customs Rebates		3,362.24
Advances:		
Wm. Seatchard	$ 6,000.00	
J. E. Plummer	66,059.39	
Robert S. Boyd	443,556.66	
W. H. Wiley	5,000.00	520,616.05
Inventories of Gum, Raw Materials, Merchandise and Supplies		4,150,626.70
Investment Bonds		224,000.00
Liberty Bonds:		
U. S. 4-1/4% Liberty Loan Bonds, (Second Loan Converted)	369,520.00	
U. S. 4-1/4% Third Liberty Loan Bonds	380,000.00	
U. S. 4-1/4% Fourth Liberty Loan Bonds	130,000.00	
Employees Fourth Liberty Loan Bonds, Trust Account	17,077.00	896,597.00
Investments in and Advances to Other Companies		2,524,803.47
Real Estate, Buildings and Equipment:		
Chicago Real Estate	207,460.08	
Chicago Buildings	879,345.58	
Chicago Factory Machinery & Equip.	665,019.80	
Chicago Factory Power Plant	84,854.49	
Brooklyn Real Estate, Dock, Slip, etc	244,131.07	
Wrigley Terminal Building Account	229,254.93	
Brooklyn Factory Machinery & Equip	161,801.83	
Wrigley Terminal Power Plant	42,000.00	
Machine Shop Fixtures	5,438.38	
Price Construction Account	13,706.07	
Chicle Desiccating Equipment	7,105.59	
Motor Trucks	42,844.26	
Chicago Main Office Fixtures	53,705.78	
	2,636,667.86	
Deduct Reserve for Depreciation	521,698.02	2,114,969.84
Patents and Patent Rights	1,500,000.00	
Deduct Reserve for Depreciation of Patents and Patent Rights	705,882.32	794,117.68
Goodwill, Concessions, Trade-Marks, etc.		6,000.000.00
Total		$19,547,344.80

674 BALANCE SHEET, Continued

LIABILITIES

Accounts Payable		$ 276,678.62
First Mortgage 5% Note (on New Brooklyn Property)		190,000.00
Reserve for Fire Loss		1,392.00
Reserve for U. P. S. Coupon Redemption		2,499,967.09
Reserve for Taxes		1,800,000.00
Capital Stock:		
Preferred	$1,500,000.00	
Common	10,000,000.00	11,500,000.00
Surplus		3,279,307.09
Total		$19,547,344.80

675 EXHIBIT "C" Exhibit C.

SURPLUS ACCOUNT

For the five years ended December 31, 1918

(Note: The notes after the various items describe the treatment that should be accorded to each in the Doublemint Accounts.)

Surplus as at January 1, 1914—(December 20, 1913)			$3,869,942.73
Add Spearmint and Peppermint Oil owned by Digesto Spearmint Company taken over included in purchase price, 12/30/13			7,703.00
(No adjustment need be made in respect of this item)			3,877,645.73
Add Net Income for year ended December 31, 1914			1,399,404.75
			5,277,050.48
Deduct Dividends paid during year ended December 31, 1914:			
Preferred—6%		$ 90,000.00	
Common—1% a month, or 12% p. a. paid monthly	$900,000.00		
Extra Dividend of 3% paid December 15, 1914	225,000.00		
Total Common Stock Dividends, 15%		1,125,000.00	
Total Dividends			1,215,000.00
Surplus as at December 31, 1914			4,062,050.48
Add One Second Hand Wrapping Machine sold to United Pepsin Gum Company, 1/31/15 (No adjustment need be made in respect to this item)			900,00
			4,062,950.48
Add Net Income for year ended December 31, 1915			2,048,823.12
			6,111,773.60
Deduct Dividends paid during year ended December 31, 1915:			
Preferred —6%		90,000.00	
Common —1% a month or 12% p. a. paid monthly	900,000.00		
Extra Dividend of 1% paid 1/2 of 1% November 1, 1915 and 1-1/2 of 1% December 1, 1915	75,000.00		
Total Common Stock Dividends, 13%		975,000.00	
Total Dividends			1,065,000.00
Surplus as at December 31, 1915 Carried Forward			$5,046,773.60

676 EXHIBIT "C"
Continued
SURPLUS ACCOUNT, Continued

Surplus as at December 31, 1915 —Brought Forward		$5,046,773.60
Add Sundry Adjustments made in 1916:		
Freight and Express Charges on Shipments to Melbourne from Aug. 7, 1915 to Dec. 2, 1915 inc. (This item should be credited to Freight out in 1915)	$5,462.51	
Miscellaneous Supplies Shipped to Melbourne in 1915. (This item was debited to "Advertising Matter" originally and no adjustment need be made therefor)	240.13	
Stationery shipped to Melbourne in 1915 (This item was debited to "Advertising Matter" originally and no adjustment need be made therefor)	2.55	
Freight on Consignments to London in 1915 (This item should be credited to Freight out in 1915)	7,209.30	
Refund by London on Advertising in Tramways in United Kingdom. (This item is a refund of expenditures made prior to the Doublemint accounting period, and no adjustment need be made therefor)	20,665.02	
	33,579.51	
Less Exchange on Refund noted immediately above (This item is a debit to Surplus and a credit to London, and no adjustment need be made in respect thereof)	1,007.42	
Net Additions in respect of Adjustments in 1916		32,572.09
		5,079,345.69
Add net Income for year ended December 31, 1916		2,443,030.04
		7,522,375.73
Deduct Dividends paid during year ended December 31, 1916:		
Preferred 6%	90,000.00	
Common —1-1/2% a month or 18% p. a. paid monthly	1,350,000.00	
Total Dividends		1,440,000.00
Surplus as at December 31, 1916 Carried Forward		$6,082,375.73

677 EXHIBIT "C" Continued

SURPLUS ACCOUNT, continued

Surplus as at December 31, 1916— Brought Forward			$6,082,375.73
Add Sundry Adjustments made in 1917:			
Allowances made to J. C. Gambles Co., Australia, by Chicago, now charged to Australian Company:			
Feb. 29, 1916	Returned Gum	$61.05	
June 27, 1916	Difference in Price	937.50	
June 27, 1916	Difference in Price	271.00	
Aug. 31, 1916	Duty on Booklets	695.45	
Aug. 31, 1916	Duty on Chewing Gum	612.40	
Aug. 31, 1916	Difference in Price	180.85	
Exchange on remittances from Melbourne		219.14	
(No adjustment need be made in respect of any of the above items as no Doublemint was ever shipped to Australia) Adjustment should be made in respect of the Exchange item however, as this was charged to an account taken into consideration in the Doublemint Accounting.			
Freight Charges on Advertising Matter shipped to Australia:			
1915		118.62	
1916		15.80	
(The out freight account for 1915 and 1916 should be adjusted in respect of these two items as they represent charges made to that account which have been transferred to the Australian Company)			
Advertising Matter shipped to Australia in 1915-1916		1,132.65	
(No adjustment is necessary in respect of this item, as the Advertising Matter was analyzed by the William Wrigley, Jr., Company to ascertain the amounts chargeable in the Doublemint accounting)			
5% Brokerage on Gum Material charged to Australian Company:			
Aug. 17, 1915-Dec. 29, 1915		2,220.49	
Dec. 29, 1915-Aug. 15, 1916		471.22	
Aug. 15, 1916-Nov. 24, 1916		895.40	
(No adjustment need be made in respect of these items as they have reference only to transactions in raw materials)			
Carried Forward		$ 7,831.57	6,082,375.73

678 EXHIBIT "C" Continued

SURPLUS ACCOUNT, Continued

Add Sundry Adjustments made in 1917, Continued:		
Brought Forward	$ 7,831.57	6,082,375.73
War Risk Insurance on Gum Material charged to Australian Company—1916	882.25	
(The Expense account for 1916 should be adjusted, as this item represents a credit which should be made thereto)		
Difference between amount charged by Melbourne and credited by Chicago on general average of the S. S. Riou	143.71	
Adjusting difference between Chicago and Melbourne	377.23	
(No adjustment is necessary in respect of these two items which are book-keeping errors and should not have been placed on the books)		
One 12-1/2 H. P. D. C. Motor sold to Peter Schoenhofen Brewery salvaged from Commercial Products Company property	125.00	
One Microscopic Slide and Cover Glasses sold to Northwestern Chemical Company, salvaged from Commercial Products Company property	66.42	
Sprinkler System sold on abandoning Chicle desiccating plant at London, Ontario	750.00	
(Strictly speaking, factory cost of gum should be adjusted in respect to these items, but as the adjustment would only represent a reduction of approximately 4/1000 of a cent a box, they have been ignored)		
Profit on setting 40 machines on the books at $1.34 over cost	53.43	
Profit on machines sold to Melbourne and Toronto	3,900.00	
(These items have no connection with Doublemint)		
Note paid by London which was charged off November 4, 1913	100,000.00	
(This item represents the recovery of a loss charged off before the accounting period)		
Charges made against Wrigley's Ltd., London:		
Interest on Note, April, 6, 1916 not carried on books (Note of $100,000.00 above)	4,400.00	
Interest on Note, April 6, 1916	392.63	
Interest on Notes, March 15, 1916	2,366.72	
(These two notes were left on the open account of Wrigley's Ltd., Company, the balance of which was included as Invested Capital. This interest should therefore be brought into the Doublemint Accounting		
Carried Forward	$121,288.96	6,082,375.73

679

EXHIBIT "C"
Continued

SURPLUS ACCOUNT, Continued

Add Sundry Adjustments made in 1917, Continued—			
Brought Forward		$ 121,288.96	6,082,375.73
Interest Charged to Wrigley's Ltd., London on open account (As the open account of Wrigley's Ltd., was included with the invested capital, this interest should be brought into the Doublemint Accounting.)		17,586.42	
Excess freight charges paid in 1916 charged to Wrigley's Ltd., London (Out Freight Account for 1916 should be reduced by this amount, as this item is, in effect, an offset against freight charges paid in 1916.)		19,020.13	
		157,895.51	
Less:			
Adjustment of error in amount of Interest charged Wrigley's Ltd. London, Oct. 17, 1916 (As these Notes Receivable were left on the open account which has been included as invested capital, all interest charges and credits in respect thereof should be brought into Doublemint Accounting)	$ 236.10		
Spearmint Advertising in Japan in 1916, formerly charged to Wrigley Co., Ltd., Japan, now charged off (This item does not concern Doublemint at all	22,500.00		
		22,736.10	
Net Addition in respect of Adjustments in 1917			135,159.41
			6,217,535.14
Add Net Income for the year ended December 31, 1917			2,883,981.06
			$9,101,516.20

680 EXHIBIT "C"
Continued

SURPLUS ACCOUNT, Continued

Brought forward			$9,101,516.20
Deduct Dividends paid during year ended December 31, 1917;			
Preferred —6%		$90,000.00	
Common —Stock Dividend of 33-1/3% declared out of surplus prior to March 1, 1913, Jan. 2, 1917	$2,500,000.00		
Cash Dividend of 1-1/2% on $7,500,000.00 paid Jan. 2, 1917	112,500.00		
Cash Dividend of 1-1/4% on $10,000,000.00 for eleven months	1,375,000.00		
Extra Cash Dividend of 5% on $10,000,000.00 paid Aug. 8, 1917	500,000.00		
Total Common Stock Dividends		4,487,500.00	
Total Dividends			4,577,500.00
Surplus as at December 31, 1917			4,524,016.20
Deduct Adjustments made during 1918:			
Depreciation on Patents for year 1911, 1912, 1913, 1914, 1915, 1916 and 1917 @1/17 per annum of $1,500,000.00 being value tentatively placed on Patents by the Internal Revenue Department		617,647.03	
(The value of $1,500,000.00 placed on the Patents is being appealed by Wm. Wrigley, Jr., Company as being too low. Meanwhile, the accounts presented to the Master in the Doublemint Accounting have been adjusted on the basis of the value of $1,500,000.00. For the adjustment see the second account filed by the Wrigley Company)			
Depreciation for 1917 on items first charged to Factory Expense and subsequently (See Below) transferred to Machinery and Equipment because the Internal Revenue Department contended that they were Improvements and Betterments		5,338.88	
(if the theory of the Internal Revenue Department is correct an adjustment should be made in the Doublemint Accounting in respect of this item.)			
Carried Forward		$ 622,985.91	4,524,016.20

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EXHIBIT "C"
Continued

SURPLUS ACCOUNT, Continued

Deduct Adjustments made during 1918, Continued:

Brought Forward		$622,985.91	4,524,016.20
Less:			
Items charged to Factory Expense in 1917 transferred to Machinery & Equipment because they were disallowed by the Internal Revenue Department on the ground that they were Improvements and Betterments (If the theory of the Internal Revenue Department is correct an adjustment should be made in the Doublemint Accounting in respect of this item.)	$ 53,388.78		
1/2 of 1917 Depreciation (at the rate of 10% pa.) on increase of $203,366.10 in Chicago Machinery and Equipment disallowed by the Internal Revenue Department because the increase occurred during the latter part of 1917 and therefore a full years depreciation should not be allowed thereon. (An adjustment should be made in the Doublemint Accounting in respect of this item.)	10,168.31		
		63,557.09	
Net Deduction in respect of Adjustment in 1918			559,428.82
Carried Forward			$3,964,587.38

682 EXHIBIT "C"—Continued.
SURPLUS ACCOUNT, Continued

Brought Forward			$3,964,587.38
Deduct Adjustment of Reserve for U. P. S. Coupon Redemptions to bring that Reserve as at December 31, 1917 to a basis of 60% of the redemption value of the coupons issued, less payments for actual redemptions to that date			1,012,633.98
(Note: As the charges for U. P. S. Coupons Contingent Liability in the Doublemint Accounting have not been computed on the same basis as that on which Reserves have been established on the General (or Private) Ledger, this adjustment can be ignored.)			
			2,951,953.40
Add Net Income for the year ended December 31st, 1918			2,417,353.69
			5,369,307.09
Deduct Dividends paid during year ended December 31, 1918:			
Preferred—6%		$ 90,000.00	
Common:			
1-1/4% a month or 15% pa. paid monthly	$1,500,000.00		
Extra Dividend of 5% paid May 10, 1918, $498,800.00 in Liberty Bonds and $1,200.00 in Cash	500,000.00		
Total Common Stock Dividends—20%		2,000,000.00	
Total Dividends			2,090,000.00
Surplus as at December 31, 1918			$3,279,307.09

COMPARATIVE STATEMENT OF THE INCOME AND PROFIT AND LOSS ACCOUNT OF THE WM. WRIGLEY JR., COMPANY FOR EACH OF THE FIVE YEARS ENDED DECEMBER 31, 1918

Note: The Wm. Wrigley Jr., Company closes its books about the 18th of December in each year, as of December 31.

	Year Ended December 31.					
	Total	1914	1915	1916	1917	1918
Credit—Sales	$62,969,888.64	8,008,536.07	9,717,145.33	12,482,342.87	15,713,657.84	17,048,206.53
Debit:						
Manufacturing Cost;						
Chicago Factory						
Material	17,308,331.06	1,757,196.24	2,216,259.96	3,347,034.18	4,586,577.04	5,401,263.64)
Labor	1,121,792.74	135,563.41	152,733.68	195,632.31	255,878.12	381,985.22)
Expense	812,612.20	93,730.80	98,918.52	116,110.35	214,248.77	289,603.76)
Light and Power	20,955.40	4,490.96	5,590.12	*1,896.75*	7,245.81	5,525.26)
Brooklyn Factory:						
Material	4,105,213.81	437,946.93	612,878.48	870,136.27	1,122,080.86	1,062,171.27)
Labor and Expense	486,402.34	49,300.16	55,746.90	79,364.72	124,609.48	177,381.08)
Toronto Factory:						
Material	341,034.93	162,184.10	178,850.83	.....	.....	.....
Labor and Expense	38,904.76	18,058.58	20,846.18	.....	.....	.....
Factory Administration Salaries	187,249.94	45,000.00	45,000.00	25,416.66	29,333.28	42,500.00)
Duty	102,942.60	102,942.60	.....	.....	.....	.....)
Manufacturing Material Freight	17,512.16	640.86	1,276.13	3,794.94	3,517.61	8,282.62(
Chicle Refining Expense	19,989.36	19,956.16	33.20	.....	.....	.....(
Stored Chicle	*3,108.40*	.....	*3,108.40*	.....	.....	.....(
Chicle Desiccating Expense	5,855.90	.....	.....	.....	5,855.90	.....(
Proprietary Revenue Stamps	1,364,353.19	75,923.72	658,855.28	629,574.19	.....	.....(
Shipping Boxes	502,822.48	63,528.26	67,301.67	87,419.47	129,851.46	154,721.62(
Packing and Shipping Department Salaries	349,482.26	47,616.70	50,967.45	65,378.85	91,991.70	93,527.56(
Motor Truck Expense	115,783.02	9,230.07	12,628.16	19,899.94	20,814.53	53,210.32(
Machinery Depreciation	12,932.53	12,932.53	.....	.....	.....	.....(
Total Manufacturing Cost	26,911,062.28	3,036,242.08	4,174,778.16	5,437,865.13	6,592,004.56	7,670,172.35(
Increase or Decrease in Inventory of Manufactured Gum	*42,002.25*	6,361.15	*1,667.93*	*34,813.77*	1,129.28	*13,010.98*
Cost of Merchandise:						
Merchandise	2,614,617.46	407,236.30	428,625.09	606,997.51	798,567.85	373,190.71)
Toronto Premiums	96,046.85	53,347.04	42,699.81	.....	.....	.....)
Freight Inwards on Premiums	47,126.54	10,227.50	8,621.70	10,397.39	12,580.87	5,299.08(
Total Cost of Merchandise	2,757,790.85	470,810.84	479,946.60	617,394.90	811,148.72	378,489.79(
Advertising:						
Advertising	7,690,191.91	2,017,071.21	1,508,504.09	1,407,238.70	1,265,213.06	1,492,164.85)
Advertising Matter	506,519.17	60,814.88	141,182.93	136,597.89	97,832.55	70,090.92)
Detail Men's Salaries and Expenses	496,095.24	56,753.85	103,148.57	131,591.03	146,979.33	57,622.46)
War Tax Rebate Gum Certificates	380,742.85	65.12	109,731.87	223,765.77	43,982.38	3,197.71(
Total Advertising	9,073,549.17	2,134,705.06	1,862,567.46	1,899,193.39	1,554,007.32	1,623,075.94
Debits—Carried Forward	$38,700,400.05	5,648,119.13	6,515,624.29	7,919,639.65	8,958,289.88	9,658,727.10

684 Comparative Statement of the Income and Profit and Loss Account of the Wm. Wrigley Jr., Company for Each of the Five Years Ended December 31, 1918.

Note: The Wm. Wrigley Jr., Company closes its books about the 18th of December in each year, of December 31.

Explanations and Remarks

The "sales" include all brands of gum, merchandise, glass jars, and sundry miscellaneous items. The "sales" have never been analyzed. The method adopted by the Wm. Wrigley Jr., Company for ascertaining the sales of Doublemint is fully explained in the memorandum of "Sales. The method by which the sales of merchandise have been ascertained for the purpose of the Doublemint Account is explained in the memorandum on "Profit and Loss on Merchandise sold with Doublemint."

This group of accounts styled "Manufacturing Cost" contains all the charges made in the Doublemint Accounting by the Wm. Wrigley Jr., Company under the caption "Manufacturing Cost," with the following exceptions:

Brooklyn Packing and Shipping Department Salaries and Boxes were contained by analysis of "Expense Account."

Brooklyn Factory Office Salaries, Supplies and Sundry Expense were obtained by analysis of "Agencies Account."

Brooklyn Administration Salary was obtained by analysis of "Agencies Account."

Toronto Factory Office and Packing and Shipping Department Salaries were obtained by analysis of "Agencies Account."

Toronto Administration Salary was obtained by analysis of "Agencies Account."

Rent is charged on the General Ledger to "Chicago Factory Expense" being a charge for the use of the Chicago Factory.

This rent has been eliminated by the Wm. Wrigley Jr., Company before figuring the "Doublemint Costs."

In the Memorandum on "Manufacturing Cost" the average cost of gum, as obtained from the General Ledger is compared with the cost of Doublemint as reported by the Wm. Wrigley Jr., Company.

There is no item in the Doublemint Accounting corresponding to this in the General Ledger, for the reason that no

charge is made in the Doublemint Accounting for cost of gum until the year or period in which the Doublemint was sold.

The debits in this group of accounts have been taken by the Wm. Wrigley Jr., Company in the item "Profit or Loss on Merchandise Sold with Doublemint." As explained in the Memorandum on "Profit or Loss on Merchandise Sold with Doublemint", the Wrigley Company has by no means taken the whole of the charges in this group of accounts into consideration, and in this way the Doublemint has not been charged with its full proportion of expenditures made in connection with Merchandise.

This group of accounts dealt with in the Doublemint Accounting under the heading "Advertising."

	Total	Year Ended December 31. 1914	1915	1916	1917	1918	Explanations and Remarks
Debits, Brought Forward	$38,700,400.05	5,648,119.13	6,515,624.29	7,919,639.65	8,958,289.88	9,659,727.10	
Debit:							
Overhead:							
Administration Salaries	598,164.33	118,249.98	107,416.69	107,431.66	113,816.00	151,250.00)	
Commission	175,642.27	10,588.12	14,823.09	18,378.45	132,324.65	*478.04*)	
Trade Discounts	216,286.80	.....	.....	.....	39,590.58	176,696.22)	
Circular Department Salaries	113,143.79	18,920.43	21,989.85	25,993.21	25,282.05	20,958.25)	
Freight Out	1,316,316.19	174,091.14	206,472.90	285,636.01	310,670.14	339,446.00)	
Express	261,711.18	39,643.78	42,043.52	54,911.45	71,938.05	53,174.38)	
Salesmen's Premiums	218,782.44	32,695.67	37,616.94	40,576.11	56,181.35	51,712.37)	
Agencies	767,253.17	132,162.33	138,554.53	192,864.10	171,069.33	132,602.88)	
Postage	156,728.40	54,136.24	31,959.04	29,847.60	26,031.32	14,754.20)	
Auditing Department Salaries	617,493.10	88,114.75	97,180.40	119,756.59	147,317.60	165,123.76)	All of these accounts are considered in the Doublemint Accounting under the caption "Overhead" with the exception that for part of 1918 the "Trade Discount Account" was treated under the heading of "Trade Discounts."
Rent	86,795.00	14,745.00	15,330.00	18,260.00	18,960.00	19,500.00)	
Interest	4,950.71	4,950.71	.....	.....	.....	.....	
Exchange	40,576.15	7,672.86	8,533.44	8,557.10	7,868.39	7,944.36)	
Insurance	183.44	*17.03*	200.47	.....	.....	.....)	
Discount	1,019,193.50	121,142.22	149,724.49	193,730.52	261,551.44	293,044.83)	
Expense	586,919.93	92,272.09	63,814.27	63,639.58	107,814.22	259,379.77(	
Suspense Accounts Written Off	57,002.84	18,556.25	10,057.33	14,495.78	14,672.19	*778.71*(	
Accounts Closed Out	89,669.14	*1,027.52*	38,215.28	30,527.08	*1,885.48*	23,839.78(	
Geo. T. Desbien—Account Written Off	1,260.01	1,260.01	.....	.....	.....	.....(	
Paris Expense	4,389.63	4,389.63	.....	.....	.....	.....(	
Paris Advertising Matter	679.60	679.60	.....	.....	.....	.....(	
Documentary Revenue Stamps	3,840.89	300.00	1,867.11	1,673.78	.....	.....(	
Canada Business Profits War Tax	12,000.00	.....	.....	12,000.00	.....	.....(	
Australian Organization Expense	10.00	.....	.....	10.00	.....	.....(	
War Tax on Sales	371,996.53	.....	.....	.....	66,166.09	305,830.44(	
Real Estate Taxes	63,706.89	12,974.37	13,165.91	11,774.83	12,787.12	13,004.66(	
Personal Property Taxes	38,470.95	14,326.71	4,866.40	6,414.84	7,135.56	5,727.44(	
Corporation Taxes	17,190.63	1,415.32	1,550.00	1,550.00	2,675.00	10,000.31(	
Tax on Increase of Capital Stock	787.50	.....	.....	.....	787.50	.....(	
Capital Stock Taxes	23,218.25	.....	.....	.....	13,495.25	9,723.00(	
Export Rebates	*18,293.05*	*1,122.84*	*8,884.69*	*1,800.77*	*6,484.75*	.....(	
Profit on Claims	*48,041.83*	*4,563.29*	*4,918.65*	*7,057.94*	*14,592.58*	*17,109.37*(	
Total Overhead	6,798,028.38	956,556.53	991,578.32	1,229,169.98	1,585,371.02	2,035,352.53	
U. P. S. Coupons:							
U. P. S. Coupons Redeemed	1,972,588.74	1,303.68	192,471.13	482,662.25	646,913.06	649,238.62)	These items are treated in the Doublemint Accounting under two headings (1) Proportion of Amount paid for U. P. S. Coupons, and (2) Proportionate Contingent Liability for unredeemed Doublemint U. P. Coupons.
Reserve for U.P.S. Coupons Red.	1,487,333.11	.....	.....	475,300.70	405,147.97	606,884.44(	
Total U. P. S. Coupons—Carried Forward	3,459,921.85	1,303.68	192,471.13	957,962.95	1,052,061.03	1,256,123.06	
Debits—Carried Forward	$48,958,350.28	6,605,979.34	7,699,673.74	10,106,772.58	11,595,721.93	12,950,202.69	

COMPARATIVE STATEMENT OF THE INCOME AND PROFIT AND LOSS ACCOUNT, Continued

	Year Ended December 31.						Explanation and Remarks
	Total	1914	1915	1916	1917	1918	
Debits Brought Forward	$48,958,350.28	6,605,979.34	7,699,673.74	10,106,772.58	11,595,721.93	12,950,202.69	
Income Taxes:							
Income Taxes Paid	1,469,418.28	23,432.14	13,994.05	20,488.23	48,860.60	1,362,643.26)	The caption under which items analogous to these are treated in the Doublemint Accounting is "Income and Excess Profits Taxes."
Income Taxes Paid—Additional for 1916	2,703.18	.....	.....	.....	.....	2,703.18)	
Reserve for Income and Excess Profits Taxes	3,025,000.00	.....	.....	.....	1,225,000.00	1,800,000.00(	
Previous Reserve for Income Taxes Reversed	*1,225,000.00*	.....	.....	.....	.....	*1,225,000.00*(	
Total Income Taxes	3,272,121.46	23,432.14	13,994.05	20,488.23	1,273,860.60	1,940,346.44	
Total Debits	52,230,471.74	6,629,411.48	7,713,667.79	10,127,260.81	12,869,582.53	14,890,549.13	
Deduct Miscellaneous Income:							
Real Estate Income	36,689.30	20,280.16	22,715.49	33,243.04	*54,821.07*	15,271.68	This item is taken into consideration under the caption "Interest on Invested Capital" insofar as the Income from assets included in Invested Capital is concerned only.
Interest	140,373.27	.....	7,501.79	22,408.03	36,913.75	73,549.70	This account is taken into consideration under the caption "Overhead" insofar as the Interest from Assets included with Invested Capital is concerned only.

Maintenance of Toronto Building	2,247.51	.....	2,247.51	.....	.....	.....	This account is included with the "Overhead" group of accounts in the Doublemint Accounting.
Peon Molina Concession	*23,276.46*	.....	*23,276.46*	.....	.....	.....)	
Guatemala Concession	36,836.21	.....	36,157.25	678.96	.....	.....)	
Investment Bond Interest	61,839.42	.....	.....	1,617.95	11,998.24	48,223.23	These items have been included in the Doublemint Accounting as part of the "Manufacturing Cost."
Dividends from Stock in other Companies	176,600.00	.....	.....	30,000.00	30,000.00	116,600.00	
Export Material Profit	15,814.83	.....	.....	.....	15,814.83	.....)	This item is only taken into consideration under "Interest on Invested Capital" insofar as the Interest derived from assets included in Invested Capital is concerned.
Profit on Machinery	6,051.68	.....	.....	.....	.....	6,051.68(	
Total Miscellaneous Income	453,175.76	20,280.16	45,345.58	87,947.98	39,905.75	259,696.29	No account has been taken of this item in the Doublemint Accounting as the investments were not included with the Invested Capital
Net Debits	51,777,295.98	6,609,131.32	7,668,322.21	10,039,312.83	12,829,676.78	14,630,852.84	No account has been taken of these items in the Doublemint Accounting as the profit derived arises from transactions not directly concerned with the manufacture and sale of chewing gum.
Net Income	$11,192,592.66	1,399,404.75	2,048,823.12	2,443,030.04	2,883,981.06	2,417,353.69	

687 In Exhibit "E" which follows, the acounts filed by the Wm. Wrigley Jr., Company before the Master on December 3, 1918, and December 10, 1918 have been consolidated with the Adjustment Statement filed March 6, 1919, and presented in comparative form by periods and also in total for ready reference and comparison:

COMBINATION OF THE ORIGINAL AND SUPPLEMENTARY ACCOUNTS FILED BY THE WM. WRIGLEY JR., COMPANY BEFORE THE MASTER

Credits—Sales	Total	July 28 '14 to Dec. 31 '14	Jan. 1 '15 to Dec. 31 '15	Jan. 1 '16 to Dec. 31 '16	Jan. 1 '17 to Dec. 31 '17	Jan. 1 '18 to Aug. 24 '18	Aug. 25 '18 to Oct. 4 '18	Oct. 5 '18 to Nov. 12 '18
	$8,917,286.90	570,426.40	1,816,332.08	2,049,964.85	2,348,003.49	1,772,376.02	316,269.31	43,914.75
Debits:								
Manufacturing Cost	3,764,725.18	238,623.67	788,715.00	885,984.13	980,825.65	699,848.69	147,042.08	23,558.36
Overhead	895,619.01	70,857.04	174,928.46	200,383.85	231,557.09	180,308.15) 127.60)	32,529.81	5,054.61
Advertising	2,794,651.76	478,688.78	822,243.30	719,854.52	448,246.59	294,909.06	30,709.51	.....
Trade Discounts	57,087.34	5,586.44	22,956.39	23,448.07	2,091.25	.....	3,005.19	.....
Printing U. P. S. Coupons and Freight and Express charges, etc., on same	6,334.86	560.78	1,212.52	1,177.32	1,956.95	1,338.13	89.16	.....
Proportion of amount paid for U. P. S. Coupons	330,320.71	1,341.87	48,537.27	98,505.24	105,264.13	63,333.18	13,339.02	.....
Proportion Contingent Liability for unredeemed Doublemint U. P. S. Coupons based on Doublemint packages shipped as compared with total number of packages shipped bearing U. P. S. Coupons	317,581.15	44,022.23	88,668.84	59,119.11	63,025.21	55,905.37	6,840.39	.....
Proportion of *Profit* or Loss on Merchandise sold with Doublemint	38,166.27	.....	21,962.16	19,461.78	5,508.76	*7,049.44*	*1,716.99*	.....
Loss by Fire at Belize, Aug. 17, 1918	1,700.30	.....	.....	.....	.....	1,700.30	.....	.....
Proportion of Interest on Capital Invested in business	306,345.38	26,642.00	78,049.77	68,651.52	72,061.20	49,873.26	11,067.63	.....
Doublemint Proportion of Interest on Capital Invested in Patents and Patent Rights	49,181.15	6,252.47	15,098.35	11,692.75	9,433.94	5,408.97	1,294.67	.....
Doublemint Proportion of Depreciation of Patents and Patent Rights	64,267.43	6,870.84	17,974.23	15,185.38	13,477.06	8,704.91	2,055.01	.....
Income and Excess Profits Taxes	563,933.89	.....	.....	.....	258,682.72	252,014.22	43,688.64	9,548.31
Total Debits	9,189,914.43	879,446.12	2,080,346.29	2,103,463.67	2,192,130.55	1,606,422.40	289,944.12	38,161.28
Profit or *Loss*	$ *272,627.53*	*309,019.72*	*264,014.21*	*53,498.82*	155,872.94	*165,953.62*	26,325.19	5,753.47

689 It is now proposed to comment on the foregoing statement, rather than upon the individual accounts filed at various times by the Wm. Wrigley Jr., Company. In this way, the errors subsequently corrected by the Company can be passed over without comment, thus simplifying the report.

Each caption of the foregoing statement is commented upon to show what verification has been made in connection therewith, if any; and if any verification or examination has been made, the nature of the item will be explained.

690 **Sales**

In " Sales Schedule '1' ", which follows, is shown how every box of Doublemint produced, as reported in Buck Exhibits "A" to "M" inclusive (which will be found in the Record), has been accounted for and also how the value of the sales of Doublemint have been computed:

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COMPARATIVE STATEMENT SHOWING METHOD OF ASCERTAINING SALES OF DOUBLEMINT USED BY WM. WRIGLEY JR. COMPANY

Period	Boxes Wrapped			Total Boxes Wrapped	Stock on Hand Brought Forward from Previous Period at Chicago only. (This is the Theoretical amount that should be on hand in the Factory, but does not Include Possible Stocks in the Shipping Department)	Total To be Accounted For	Toronto		
	Toronto	Brooklyn	Chicago				Returns to Factory	Given Away as Donations	Given Away for Advertising
July 28, 1914 to December 31, 1914	73,079	214,756	1,015,878	1,303,713	.....	1,303,713	.....	85	.....
January 1, 1915 to December 31, 1915	186,476	593,015	3,102,936	3,882,427	14,525	3,896,952	5,722	1,252	17,119
January 1, 1916 to December 31, 1916	.....	503,934	3,806,742	4,310,676	26,707	4,337,383	.....	.....	.....
January 1, 1917 to December 31, 1917	.....	713,076	3,868,611	4,581,687	63,603	4,645,290	.....	.....	.....
January 1, 1918 to August 24, 1918		583,934	2,675,507	3,259,441	21,433	3,280,874	.....	.....	.....
August 26, 1918 to October 4, 1918		160,889	523,293	684,182	.....	684,182	.....	.....	.....
October 5, 1918 to November 12, 1918	Production included in figures for preceding period								
Total	259,555	2,769,604	14,992,967	18,022,126			5,722	1,337	17,119

Summary of Sales of Doublemint as Reported	Total		July 28, 1914 to Dec. 31, 1914		Jan. 1, 1915 to Dec. 31, 1915		Jan. 1, 1916 to Dec. 31, 1916	
Toronto Sales	221,985	$109,966.52	72,994 @ 48c	$35,037.12	63,648 @ 48c 85,343 @ 52c	30,551.04 44,378.36		
Brooklyn and Chicago:								
Foreign Sales	570,608	242,994.27	2,297	969.24	49,873	21,553.62	100,618	38,164.93
Sales in U. S. less than/list	513,673	254,862.56	40	19.20	33,962	16,301.76	154,901	76,146.60
Sales at list prices in U. S.	15,816,152	8,309,463.55	641,152 @ 48c 158,929 @ 52c	451,757.76 82,643.08	3,276,052½ (@ 52c)	1,703,547.30	3,722,391 @ 52c	1,935,643.32
	17,122,418	8,917,286.90	1,175,422	$570,426.40	3,508,878½	$1,816,332.08	3,977,910	$2,049,964.85

The above Statements are compiled from the Record

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COMPARATIVE STATEMENT SHOWING METHOD OF ASCERTAINING SALES OF DOUBLEMINT USED BY WM. WRIGLEY JR., COMPANY

Brooklyn and Chicago

Returns to Factory	Shipped on War Tax Rebate Certificates	Given away as Donations	Not in Enjoined Wrappers: Advertising Sampling Campaigns	Not in Enjoined Wrappers: Short Tab V.M.B.A.	Not in Enjoined Wrappers: Short Tab V.M.M.R.	Not in Enjoined Wrappers: Single Stick V.M.N.R.	Sales: Foreign Sales	Sales: Sales in U. S. A. at less than list	Sales: Sales in U. S. A. at list Prices	Sales: Total Accounted For	Theoretical Inventory at Chicago at end of Period	Exceptions: Number of Boxes	Exceptions: Explanation
No Returns							72,994						
Stated Sheets Missing	220	396	113,065				2,297	40	1,100,091	1,289,188			
							148,991				14,525	Canadian Stock	Sold to New Canadian Co. This shortage of 5,500 boxes is due to the fact that production was reported on a 20 package box basis, while some sales were reported on a 21 package box basis (Canada)
8,427	128,410½	17,595	169,449				49,873	33,962	3,276,052½	3,856,853	7,892		
5,399	172,391	11,748	98,232	8,100			100,618	154,901	3,722,391	4,273,780	26,707	5,500	
14,419	25,087	8,446	19,740	18,554	100	4,700	153,325	205,800	4,173,686	4,623,857	63,603		
6,182½	1,749½	4,284	1,219	10,000	1,400	8,500	112,538	101,370	3,033,631	3,280,874	21,433		
169	139	628½	38	2,250	.....	1,110	58,452	17,600	510,300½)				
.....	.....	.....	.....	.....	.....	.....	93,505	.....	.....(	684,182			
34,596½	327,997	43,097½	401,743	38,904	1,500	14,300	792,593	513,673	15,816,152	18,008,734			
5,722		1,337	17,119										
40,318½	327,997	44,434½	418,862	38,904	1,500	14,300	792,593	513,673	15,816,152	18,008,734			

Total boxes Wrapped	18,022,126
Total Boxes Sold, Returned or Given Away	18,008,734
Canadian Inventory as at Dec. 31, 1915, taken over by Canadian Co.	7,892
Shortage in Canada, 1915, explained above	5,500
Total	18,022,126

Jan. 1, 1917 to Dec. 31, 1917		Jan. 1, 1918 to Aug. 24, 1918		Aug. 26, 1918 to Oct. 4, 1918		Oct. 5, 1918 to Nov. 12, 1918	
153,325	58,393.72	112,538	53,193.97	58,452	26,804.04	93,505	43,914.75
205,800	102,900.00	101,370	50,685.00	17,600	8,800.00		
3,627,251@52c	1,886,170.52	3,033,631@55c	1,668,497.05	510,300½@55c	280,665.27		
546,435@55c	300,539.25						
4,532,811	$2,348,003.49	3,247,539	$1,772,376.02	586,532½	$ 316,269.31	93,505	43,915.75

The above Statements are compiled from the Record

693 All the production of Doublemint gum has been accounted for by the Wm. Wrigley Jr., Company, either as sales, returned to factory, given away, or as not being wrapped in the enjoined dress. The first statement on Schedule "1" shows how the production has been accounted for. The figures relative to "Boxes Wrapped" have been taken from Buck Exhibits "A" to "M" inclusive. Buck Exhibits "G" to "M" are not intelligible without further explanation. The headings on both of these statements give the dates "August 26, to October 4, 1918" whereas according to Mr. Buck's explanation the figures concerning production given therein, so far as they relate to gum wrapped in the enjoined dress or in the five stick package in which the gum was first wrapped in white dry wax paper and the five stick in a green waxed paper wrapper, cover the period from August 26, to November 12, 1918. On page 404 of the Record, Mr. Buck states that the total production of Doublemint gum between August 26, and October 4, 1918, was 684,182 boxes, while on page 415 he gives the total production between October 5 to November 12, 1918, as 93,505 boxes, making a total for the period from August 26, to November 12, 1918, of 777,687 boxes. These figures were evidently intended by Mr. Buck to refer only to the gum wrapped in the enjoined dress or in the five stick package in which the gum was first wrapped in white dry wax paper and the five sticks in a green waxed paper wrapper, as Buck Exhibits "G" and "M" show that the total production of Doublemint was far in excess of the figures given by Mr. Buck in his testimony, However, on pages 530 and 531 of the Record, Mr. Buck states that these Exhibits should be amended to show clearly that the production of Doublemint to be accounted for during the whole period from August 26, to November 12, 1918, was 684,182 boxes only; whether or

694 not his corrections on pages 530, 531 and 422 on the Record amend his testimony appears to be doubtful, although the intention seems to have been that they should. In view of these circumstances, therefore, it has been assumed in the preparation of Schedule "1" that the testimony and the exhibits referred to have been amended. None of the figures have however, been verified by inspection or examination of the factory records.

In computing the sales of Doublemint, the Wm. Wrigley Jr., Company has, taking the period covered by the accounting as a whole, used the production at Toronto, (until December 31, 1915 only as regards Toronto,) Brooklyn and Chicago as the

basis. During the period from July 28, 1914, to December 31, 1917, the basis used, as far as Chicago is concerned only was the deliveries from the factory to the shipping department. However, at the end of the period from January 1, to August 24, 1918, the stock of Doublemint on hand in the Chicago factory was added to the deliveries from the factory to the shipping department, thus bringing the accounting to a production basis; thereafter the production figures were used. So, after allowing for gum returned to the factory, given away for donations or for advertising or other purposes, and for gum not wrapped in the enjoined dress, all the Doublemint produced has been accounted for as having been sold. The accuracy of the figures, as has been stated, has not been checked, but as commentary thereon, it may be pointed out that during the period from July 28, 1914 to August 24, 1918, the figures compiled from the sheets sent by the shipping department at Chicago to the main office recording the deliveries of Doublemint from the factory totaled 1,386 boxes more than the total production as arrived at by taking the figures on the Chicago factory records, after allowing for the inventory of 19,999 boxes on hand in the factory as at the close of business on August 24, 1918.

695 the fact that the records of the deliveries from the factory to the shipping department so nearly tally with the production figures compiled in the factory would seem to indicate that the records closely approximate absolute accuracy, especially when the difference of 1,386 boxes is compared with the production (at Chicago) of 14,469,674 boxes of Doublemint. The records of the deliveries from the factory to the shipping department, and the factory production records are compiled from different sources.

It is convenient to point out here the meaning of an item on Larson Exhibit "21 J". The item referred to is as follows: "Less adjustment of 1,386 boxes entered as sales but not produced by factory". The 1,386 boxes referred to is the difference between the factory production records and the records of the deliveries to the shipping department by the factory. The former have been assumed to be correct, and consequently the 1,386 boxes were deducted from the deliveries to the shipping department by the factory.

It will be noted that in the statement on Schedule "1" there is an exception. It occurs in 1915, when the production of Doublemint at Toronto as reported on Buck Exhibit "A" after deduction of the gum returned to the factory and that given away, and of the inventory of 7,892 boxes on hand at

the end of the year, amounts to 5,500 boxes in excess of the number of boxes reported as sales. The explanation of this is that during 1915 a certain number of boxes of Doublemint were sold in Canada in which there were twenty-one five stick packages to a box; the production, however, was uniformly reported on the basis of twenty packages to a box. It is claimed by the Wm. Wrigley Jr., Company that when the production is reduced to a twenty-one package basis there will be no difference. This statement has not been verified by examination of the respective figures.

696 There is an error in Larson Exhibit No. 25 A. The number of boxes stated as being shipped on War Tax Rebate Certificates is 138; this should be 139. The original exhibit was incorrect. The copy in the Record is a correct copy of the original, which was, however, incorrectly copied from the original memoranda prepared by the Wm. Wrigley Jr., Company.

There is a question concerning the Doublemint on hand at Toronto when the Canadian Company took over the business from the West Virginia Corporation as at December 18, 1915. As this gum was made and wrapped by the West Virginia Corporation and was undoubtedly sold by the Canadian Company in its original dress, should it be accounted for as sales at the standard price then prevailing? This gum was sold by the West Virginia Corporation to the Canadian Company at 22 cents a box. The cost of the gum according to the account filed by the Wm. Wrigley Jr., Company, was 20.0764 cents a box. Therefore, in any event, it would appear that there was a slight profit of $151.81 on the sale of 7,892 boxes by the West Virginia Corporation to the Canadian Company. whether or not this profit should be brought into this present accounting is, perhaps, open to argument, but the fact is that it has not been included.

In order to clarify the remarks which follow, the method by which the Wm. Wrigley Jr., Company has computed the sales of Doublemint is now explained. From the production, the returns to the factory have been deducted, and from this figure the gum shipped on War Tax Rebate Certificate, given away as donations or for advertising purposes has been deducted, the result having been assumed to be the gum sold, in all classes of dress. The gum not wrapped in the enjoined dress has then been deducted, leaving the total number of boxes of gum wrapped in the enjoined dress to be accounted for.

697 Accounting which include all brands are kept in the sales ledgers for gum shipped on War Tax Certificates,

given away as donations or for advertising purposes. In the sales ledger, the reference number of each charge sheet is given. For the purpose of this accounting, each charge sheet posted to these accounts has been looked up from the references in the ledger, and the number of boxes of Doublemint shipped thereon has been totaled. In this way the actual amount of Doublemint shipped on War Tax Certificates or given away as donations or for advertising or for other purposes has been ascertained.

The Doublemint that was not wrapped in the enjoined dress was short-tab and single-stick gum, both varieties being sold to the ultimate consumer by means of vending machines. These varieties of gum are sold by the Wm. Wrigley Jr., Company to the Boston Advertising Company of Boston and the National Railway Advertising Company of Chicago. Accordingly, the ledger accounts of these Companies have been scrutinized and each charge sheet since the introduction of these varieties has been looked up and the Doublemint short-tab of single stick totaled therefrom.

In order to ascertain the foreign sales, all the charge sheets have been examined and those which represent Doublemint which was shipped to foreign countries have been copied and listed to obtain the total quantities and values of such shipments. Sales have been treated as foreign sales when the ultimate destination was a foreign country, whether the jobber or dealer was resident in the U. S. A. or not.

The same method has been followed in ascertaining the sales of Doublemint in U. S. A. at less than list prices. Certain concerns which handle very large quantities of gum are sold, or have been sold at various times during this ac-
698 counting period, at prices which are less than the regular jobber's list prices. A list is kept of all customers with whom special price arrangements have been made, and using this list, the ledger accounts of such customers have been scrutinized, the charge sheets posted to such accounts referred to, and the number of boxes of Doublemint sold and the sales value thereof totaled therefrom.

The total production of the Doublemint after deducting returns to the factory, gum shipped on War Tax Rebate Certificates, gum given away as donations or for advertising or for other purposes, foreign sales, and sales in U. S. A., at less than list prices, has been priced at various list prices which have prevailed from time to time during the accounting period.

The first statement on Schedule "1" shows how the quantities of Doublemint produced have been accounted for; the second how the sales in dollars and cents have been arrived at. It may be pointed out that all Toronto sales have been accounted for at the standard list prices prevailing in Canada; this comment refers, of course, only to the period to December 31, 1915.

Summing up, it may be stated that subject to the clerical accuracy of the original records and of the work in compiling the various figures therefrom, and in the absence of fraud—of which, it may be stated at once, not the slightest trace is apparent, the possibility merely being indicated here as a disclaimer of responsibility—the method of computing the sales of Doublemint adopted by the Wm. Wrigley Jr., Company will have resulted in a greater value of Doublemint sales being reported in the accounts filed before the Master than the actual value received from those sales.

699 In the first place, as soon as list prices have been changed, the sales from the dates on which such changes officially went into force were calculated on the new prices although quite a considerable volume of good must have been sent out after those dates priced at the old prices.

The Wm. Wrigley Jr., Company prepays freight on all drop shipment offers, with the exception of shipments made to points in Arizona, New Mexico, Utah, Wyoming, California, Montana, Oregon, Idaho, Nevada and Washington. Shipments to these state are made F. O. B. Chicago, but extra gum is included to offset the transportation charges. For this purpose, the extra gum is valued at 60 cent as box. Thus, for instance, if the freight charge is $3.00 five boxes of gum are included. Naturally a certain proportion of this extra gum will have been Doublemint, although there is no data readily available from which the amount of Doublemint shipped to cover freight charges on these drop shipment offers can be calculated. It is clear, however, that owing to the method of calculating the sales of Doublemint adopted by the Wm. Wrigley Jr. Company, the Doublemint shipped to offset freight charges on the drop shipment offers has been included as sales of the standard list prices. The cost of this gum has been charged in this accounting.

All doublemint shipped on straight gum drop shipment offers has been included with the sales at the standard list prices.

A relatively small amount of gum is sold to the office

employes at prices which have varied from 35 to 40 cents a box. The cost of Doublemint so sold is included with the cost of Doublemint given away; no proportion of the receipts from such sales has been credited in the Doublemint accounting. The probabilities are that Doublemint's proportion for the whole period would be between $500.00 and
700 $1,000.00 only. In any event it is impossible to ascertain the actual amount received from such sales of Doublemint, as no detailed record has been kept.

The Wm. Wrigley, Jr., Company has assumed that all returns of Doublemint have been of gum which was sold. It will be appreciated, having regard to the basis on which the sales of Doublemint have been ascertained, that if any of the returns deducted from the production in reality applied against gum charged in the first place as donations, or against gum not in the adjoined dress, the sales of Doublemint should pro tanto be increased. An inquiry has been directed to this point, I have been informed that no vending machine Doublemint, and an examination of a number of the sheets from which the Wm. Wrigley Jr., Company has compiled its figures relative to returns would appear to substantiate this statement, has ever been returned; it would also appear that any returns of Doublemint given away as donations are negligible. Especially having regard to the fact that no returns for the period from July 28, to December 31, 1914, have been taken into consideration, it would seem that the point raised may be equitably ignored.

The Wm. Wrigley Jr., Company charges one cent a box extra for all gum sold in less than 50 box case lots. A test was made for the purpose of ascertaining if any injustice had been worked by the Wm. Wrigley Jr., Company's ignoring this fact in connection with the Doublemint accounting. The number and value of such sales were found to be so insignificant the the inquiry was not pursued further.

701 Manufacturing Cost

The cost and production records of the various factories have not been examined, as Mr. Aldrich accepted the cost figures of the Wm. Wrigley Jr., Company with certain reservations. The figures submitted in the Doublemint accounting have, however, been tested by the application of general principals, and by a comparison of the costs of Doublemint as submitted in the accounts filed with the Master and the average costs of all gums as ascertained

from the statistical records of production and from the accounts in the general books.

The first point to which attention is directed is the fact that in computing the cost of Doublemint, returned gum boiled over in the kettles has been included at a value of 14 cents a box being the estimated value of the materials in the old gum which can be used in making new gum. It is evident in so far as the returned gum so used was Doublemint, the charge of 14 cents a box is inadmissible inasmuch as the materials in such gum were previously charged when the gum was first made. If more returned gum is used than the number of boxes of Doublemint returned, then the excess is a legitimate charge, inasmuch as the material in such gum would originally have been charged to some other brand, If less returned gum is used than the number of boxes of Doublemint returned, then the excess should be credited to the Doublemint cost at 14 cent a box, because the materials in such excess can be used in a subsequent period, and the costs in the present case should not be burdened therewith.

On the other hand, in ascertaining the cost per box, for the purposes of this accounting, the total cost in dollars and 702 cents has been divided by the gross number of boxes produced. By doing this, the cost of the returned gum (from which no revenue is derived) has not been spread over the cost of the gum sold or given away, although there is obviously a loss when gum is returned to the kettles.

The following statement shows how the Doublemint costs should be corrected on account of the two errors in principle just commented upon:

CORRECTION OF DOUBLEMINT COSTS IN RESPECT OF RETURNED GUM

	Total	July 28 to Dec. 31 '14	Jan. 1, to Dec. 31 '15	Jan. 1 to Dec. 31 '16	Jan. 1, to Dec. 31 '17	Jan 1, to Aug. 24 '18	Aug. 26, to Oct. 4 '18
Boxes Wrapped:							
Toronto—Buck Exhibit "A"	259,555	73,079	186,476				
Brooklyn—Buck Exhibits "H" to "M"	2,804,029	214,756	593,015	503,934	713,076	583,934	195,314
Chicago—Buck Exhibits "B" to "G"	15,374,071	1,015,878	3,102,936	3,806,742	3,868,611	2,675,507	904,397
Total Boxes Wrapped	18,437,655	1,303,713	3,882,427	4,310,676	4,581,687	3,259,441	1,099,711
Total Cost:							
Toronto—Buck Exhibit "A"	$ 52,079.93	15,746.47	36,333.46				
Brooklyn—Buck Exhibits "H" to "M"	637,373.88	43,471.69	135,229.91	117,288.51	154,396.95	138,593.72	48,393.10
Chicago—Buck Exhibits "B" to "G"	3,343,246.47	205,345.38	688,483.83	836,157.55	826,312.89	560,449.74	226,497.08
Total Cost	$4,032,700.28	264,563.54	860,047.20	953,446.06	980,709.84	699,043.46	274,890.18
Average Cost per Box (Cents)		20.29308	22.15230	22.11825	21.40499	21.44672	24.99658
Boxes returned to Kettles per Larson Exhibits 21 "A" to "J" and Larson Exhibit 25 "A";							
Toronto	5,722		5,722				
Brooklyn and Chicago	34,596½		8,427	5,399	14,419	6,182½	169
Total Boxes returned to Kettles	40,318½		14,149	5,399	14,419	6,182½	169
Net Production after deducting Boxes returned to Kettles	18,397,336½	1,303,713	3,868,278	4,305,277	4,567,268	3,253,258½	1,099,542
Total Cost, as above	$4,032,700.28	264,563.54	860,047.20	953,446.06	980,709.84	699,043.46	274,890.18
Deduct Returned Gum @ 14c a box	5,644.59		1,980.86	755.86	2,018.66	865.55	23.66
Total Cost after deducting Returned Gum charged into Cost	$4,027,055.69	264,563.54	858,066.34	952,690.20	978,691.18	698,177.91	274,866.52
Average Cost based on Exclusion of Returned Gum in Production and in Cost (Cents)		20.29308	22.18213	22.12843	21.42837	21.46088	24.99827
Toronto Cost, on revised basis		21.5472	20.274789				
Brooklyn and Chicago Cost, on revised basis		20.2186	22.305860	22.12843	21.42837	21.46088	24.99827

The statement now submitted shows the adjustments that should be made in the accounts of the Wm. Wrigley Jr., Company filed before the Master, in order to correct the errors referred to:

Manufacturing Cost

STATEMENT GIVING BASIS FOR ADJUSTMENT OF ACCOUNTS FILED BEFORE THE MASTER BY THE WM. WRIGLEY JR., COMPANY IN RESPECT OF ERRORS MADE IN COMPUTING COST OF DOUBLEMINT GUM

Tabulation of the cost of all Doublemint charged in Wrigley's Account

Headings under which Cost of Doublemint is charged in Wrigley's Account

Part 1

	Manufacturing Cost		Donations		Sampling Campaigns		War Tax Rebate Certificates		Total	
	Boxes	Cost	Boxes	Cost	Boxes	Cost	Boxes	Cost	Boxes	Cost
July 28, 1914 to December 31, 1914:										
Toronto—Wrigley's Cost per Box 21.5472	72,994	15,728.16	85	18.31					73,079	15,746.47
Brooklyn and Chicago—Wrigley's Cost per box 20.2186	1,102,428	222,895.51	396	80.96	113,065	22,860.23	220	44.48	1,216,109	245,880.28
January 1, to December 31, 1915:										
Toronto—Wrigley's Cost per Box 20.0764	148,991	29,912.03	1,252	251.35	17,119	3,436.88			167,362	33,600.26
Brooklyn and Chicago—Wrigley's Cost per box:										
Opening Inventory 20.2186	14,525	2,936.75							14,525	2,936.75
Doublemint made during year 22.2869	3,345,362½	745,577.48	17,595	3,921.38	169,449	37,764.93	128,410½	28,618.72	3,660,817	815,882.51
January 1, to December 31, 1916:										
Brooklyn and Chicago—Wrigley's Cost per box:										
Opening Inventory 22,2869	26,707	5,952.16							26,707	5,952.16
Doublemint made during year 22.1182	3,951,203	873,934.98	11,748	2,598.44	98,232	21,727.15	172,391	38,129.78	4,233,574	936,390.35
January 1, to December 31, 1917:										
Brooklyn and Chicago—Wrigley's Cost per box:										
Opening Inventory 22.1182	63,603	14,067.84							63,603	14,067.84
Doublemint made during year 21.4050	4,469,208	956,633.97	8,446	1,807.87	19,740	4,225.34	25,087	5,369.87	4,522,481	968,037.05
January 1, to August 24, 1918:										
Brooklyn and Chicago—Wrigley's Cost per box:										
Opening Inventory 21.4050	21,433	4,587.73							21,433	4,587.73
Doublemint made during period 21.4467	3,226,106	691,893.28	4,284	918.78	1,219	261.43	1,749½	375.21	3,233,358½	693,448.70
August 26, to October 4, 1918:										
Brooklyn and Chicago—Wrigley's Cost per box: 24.98121	586,352½	146,477.95	628½	157.00	38	9.49	139	34.72	587,158	146,679.16
October 5, to November 12, 1918:										
Brooklyn and Chicago—Wrigley's Cost per Box 24.98121	93,505	23,358.68							93,505	23,358.68
Total	17,122,418	3,733,956.52	44,434½	9,753.19	418,862	90,285.45	327,997	72,572.78	17,913,711½	3,906,567.94

704 CALCULATION OF COST OF DOUBLEMENT CHARGEABLE IN WRIGLEY'S ACCOUNT, BASED ON REVISED COSTS

Part 2

	Headings under which Cost of Doublemint is charged in Wrigley's Account									
	Manufacturing Cost		Donations		Sampling Campaigns		War Tax Rebate Certificates		Total	
	Boxes	Cost	Boxes	Cost	Boxes	Cost	Boxes	Cost	Boxes	Cost
July 28, 1914 to December 31, 1914:										
Toronto—Revised Cost per Box 21.5472	72,994	15,828.16	85	18.31	—				73,079	15,746.47
Brooklyn and Chicago—Revised Cost per box 20.2186	1,102,428	222,895.51	396	80.07	113,065	22,860.16	220	44.48	1,216,109	245,880.22
January 1, to December 31, 1915:										
Toronto—Revised Cost per box 20.2748	148,991	30,207.63	1,252	253.84	17,119	3,470.84			167,362	33,932.31
Brooklyn and Chicago—Revised Cost per box:										
Opening Inventory 20.2186	14,525	2,936.75							14,525	2,936.75
Doublemint made during year 22.3059	3,345,362½	746,213.21	17,595	3,924.72	169,449	37,797.12	128,410½	28,643.12	3,660,817	816,578.17
January 1, to December 31, 1916:										
Brooklyn and Chicago—Revised Cost per box:										
Opening Inventory 22,3059	26,707	5,957.24							26,707	5,957.24
Doublemint made during year 22.1284	3,951,203	874,338.00	11,748	2,599.64	98,232	21,737.17	172,391	38,147.37	4,233,574	936,822.18
January 1, to December 31, 1917:										
Brooklyn and Chicago—Revised Cost per box:										
Opening Inventory 22.1284	63,603	14,074.33							63,603	14,074.33
Doublemint made during year 21.4284	4,469,208	957,679.77	8,446	1,809.84	19,740	4,229.97	25,087	5,375.74	4,522,481	969,095.32
January 1, to August 24, 1918:										
Brooklyn and Chicago—Revised Cost per box:										
Opening Inventory 21.4284	21,433	4,592.75							21,433	4,592.75
Doublemint made during period 21.4609	3,226,106	602,351.38	4,284	919.38	1,219	261.61	1,749½	375.46	3,233,358½	693,907.83
August 26, to October 4, 1918:										
Brooklyn and Chicago—Revised Cost per box 24.9983	586,352½	146,578.16	628½	157.11	38	9.50	139	34.75	587,158	146,779.52
October 5, to November 12, 1918:										
Brooklyn and Chicago—Revised Cost per box 24.9983	93,505	23,374.66							93,505	23,374.66
Total	17,122,418	3,736,927.55	44,434½	9,762.91	418,862	90,366.37	327,997	72,620.92	17,913,711½	3,909,677.75

705

Manufacturing Cost

SUMMARY SHOWING ADDITIONAL AMOUNT CHARGEABLE IN THE DOUBLEMINT ACCOUNTING BY REASON OF THE ERRORS IN WRIGLEY'S COSTS IN RESPECT OF RETURNED GUM

Part 3

	Charges for Cost of Doublemint Gum Per Wrigley's Gum Figures	Charges for Cost of Doublemint based on Revised Costs	Additional Amounts Chargeable
July 28, to December 31, 1914	$261,626.75	261,626.69	.06
January 1, to December 31, 1915	852,419.52	853,447.23	1,027.71
January 1, to December 31, 1916	942,342.51	942,779.42	436.91
January 1, to December 31, 1917	982,104.89	983,169.65	1,064.76
January 1, to August 24, 1918	698,036.43	698,500.58	464.15
August 26, to October 4, 1918	146,679.16	146,779.52	100.36
October 5, to November 12, 1918	23,358.68	23,374.66	15.98
Total	$3,906,567.94	3,909,677.75	3,109.81

706 Another error which the Wm. Wrigley Jr., Company has made in connection with manufacturing cost is in the apportionment as between Doublemint and other gum, of the cost of "Shipping Boxes." Most of the bills for shipping boxes have been charged to "Shipping Boxes Account." There is only one account for "Shipping Boxes" as it was not deemed necessary to open separate accounts for each of the factories. At Brooklyn, however, some shipping boxes were purchased whch were charged to "Expense Account" on the general ledger. Consequently, the situation with regard to shipping boxes, is this: All boxes used at Chicago and Toronto (to the end of 1915) were charged to "Shipping Boxes Account": of those used at Brooklyn part were charged to "Shipping Boxes Account" and part to "Expense Account."

In the Doublemint accounting, the "Shipping Boxes Account" has been included with the Chicago factory overhead, the result being that not only has the cost of the boxes used at Chicago been apportioned as between Doublemint and other gum on the basis of the proportion of Doublemint manufactured at Chicago to the total quantity of gum manufactured at Chicago, but all the cost of the shipping

boxes used at Toronto (to the end of 1915) and part of the cost of those used at Brooklyn have been apportioned on the same basis. As more Doublemint, in comparison with the total output, is manufactured at Chicago, this method has, of course, resulted in an overcharge against Doublemint.

This overcharge amounted, over the whole period, to $3,047.53 as is shown in the statement hereafter submitted. In order to ascertain the correct charge against Doublemint in respect of shipping boxes, the amounts charged to "Expense Account" were added to those charged to "Shipping Boxes Account" and the total apportionment as between Doublemint and other gum in the proportion 707 which the total production of Doublemint (except that wrapped in the non-infringing dress) bears to the total production of all gum at all factories, each period being treated separately, except that in 1914 and those in 1918. As no inventory was taken of boxes on hand July 28, 1914, the average cost per box for the whole year of 1914 was used as the basis for ascertaining the correct charge for the period from July 28, to December 31, 1914. There are three periods in the year 1918, for each of which it is impossible to ascertain the correct charge because no inventory was taken until the end of the year; consequently in each of those periods, the average cost per box for shipping boxes for the whole year has been used as the basis for determining the proper charge.

The following statement shows the charges made by the Wm. Wrigley Jr., Company in respect of shipping boxes, the correct charges, and the excess charges in the accounts filed before the Master in each of the periods of the Doublemint accounting:

Manufacturing Cost

CORRECTION OF CHARGE MADE FOR "SHIPPING BOXES" BY WM. WRIGLEY JR. COMPANY IN THE DOUBLEMINT ACCOUNTING

Charges made by Wm. Wrigley Jr. Company for Shipping Boxes	Total	July 28 '14 to Dec. 31 '14	Jan. 1 '15 to Dec. 31 '15	Jan. 1 '16 to Dec. 31 '16	Jan. 1 '17 to Dec. 31 '17	Jan. 1 '18 to Aug. 24 '18	Aug. 26 '18 to Oct. 4 '18	Oct. 5 '18 to Nov. 12 '18
Chicago:	$75,296.22							
Per Buck Exhibit "B"		5,010.91						
Per Buck Exhibit "C"			11,627.80					
Per Buck Exhibit "D" less proportionate deduction for Doublemint not wrapped in enjoined dress				16,763.09				
Per Buck Exhibit "E" less proportionate deduction for Doublemint not wrapped in enjoined dress					20,858.60			
Per Buck Exhibit "F" less proportionate deduction for Doublemint not wrapped in enjoined dress						16,899.32		
Per Buck Exhibit "G" less proportionate deduction for Doublemint not wrapped in enjoined dress and taking cost for Jan. 1 to Aug. 24, 1918, as the cost for 81,448 boxes (For the period from Oct. 5 to Nov. 12, 1918, the cost of shipping boxes for 93,505 boxes has been carried over from the previous period)							3,392.61	743.89
Brooklyn—Ascertained from an analysis of the item "Packing and Shipping Labor and Boxes" appearing on Buck Exhibits "H" to "M" inclusive	8,253.57	218.01	1,294.01	1,578.22	2,236.33	2,282.91	644.09	
Per Adjustment Statement filed March 6, 1919, Item 12	3,089.11		3,089.11					
Total Charges in respect of Shipping Boxes in Doublemint accounting	86,638.90	5,228.92	16,010.92	18,341.31	23,094.93	19,182.23	4,036.70	743.89
Deduct Correct Charges based on equal Average Cost per Box for Shipping Boxes at Brooklyn, Chicago and Toronto	83,591.37	5,137.55	15,356.36	17,842.56	22,662.52	18,668.87	3,384.68	538.83
Excess Charges in Doublemint Accounting	$ 3,047.53	91.37	654.56	498.75	432.41	513.36	652.02	205.06

709 To enable a comparison to be made between the Doublemints costs as submitted in the accounts filed before the Master and the periodical average costs of all gum during the accounting period, a statement has been prepared, and is hereinafter presented, in which the average costs of all gum have been ascertained from the accounts in the general ledger and by using production figures furnished by the Wm. Wrigley Jr., Company.

In considering these comparative costs, it should be borne in mind that during the accounting period the percentage of the production of the three standard brands, Spearmint, Juicy Fruit and Doublemint, to the total production has varied from 92.41% in 1914 to 96.85% in 1918. Thus the production of "off" and "private" brands has been comparatively negligible. As between Spearmint, Juicy Fruit and Doublemint, it is the concensus that Spearmint costs least to manufacture, while Doublemint costs less than Juicy Fruit. The margin of cost between Juicy Fruit and Doublemint is probably appreciably greater than that between Doublemint and Spearmint. A perusal of the annual inventories would seem to substantiate these generalizations. Reasoning from these generalizations, one would expect to find the cost of Doublemint slightly higher than the average costs during the first part of the accounting period and probably dropping slightly lower than the average costs after 1916, inasmuch as Juicy Fruit did not commence to be a very big seller until sometime in 1916, after the sales grew, passed Doublemint, and approached Spearmint.

In the following statement, an attempt has been made to reduce the Doublemint and the average costs to the same basis, and it is thought this has, practically speaking, been done, although there may be items of minor importance which have not been properly treated for comparative purposes, as the accounts have not been analyzed.

COMPARISON OF DOUBLEMINT AND AVERAGE COSTS

Average Costs

Part 1

	Year Ended December 31				
	1914	1915	1916	1917	1918
Manufacturing Cost per Exhibit "D" of this Report	$3,036,242.08	4,174,778.16	5,437,865.13	6,592,004.56	7,670,172.35
Add:					
Doublemint Used for Sampling Purposes credited to Chicago Factory Material	19,347.27				
	$3,055,589.35	4,174,778.16	5,437,865.13	6,592,004.56	7,670,172.35
Deduct:					
Rent Charged Chicago Factory on General Ledger, but not taken into Account in ascertaining Doublemint Costs	24,999.96	24,999.96	32,905.99	35,661.80	46,730.03
	3,030,589.39	4,149,778.20	5,404,959.14	6,556,342.76	7,623,442.32
Deduct:					
Proprietary Revenue (or War Tax) Stamps. Although this tax affected three periods, it was in effect during one full year 1915, only, and therefore it is more convenient for comparative purposes to exclude it	75,923.72	658,855.28	629,574.19		
Deduct:					
Profit on Guatemala Concession		12,804.58	678.96		
	2,954,665.67	3,478,118.34	4,774,705.99	6,556,342.76	7,623,442.32
Add:					
Loss on Peon Molina Concession		23,276.46			
Adjusted Cost for Comparative Purposes	$2,954,665.67	3,501,394.80	4,774,705.99	6,556,342.76	7,623,442.32
Total Production—Boxes	16,718,363	19,031,794	25,000,166	29,843,735	31,039,906¼
Average Cost Per Box as Adjusted for Comparative Purposes—Cents	17.673176	18.397607	19.098697	21.968908	24.560133

COMPARISON OF DOUBLEMINT AND AVERAGE COSTS

Part 2	Doublemint Costs July 28 to Dec. 31 '14	Jan. 1 to Dec. 31 '15	Jan. 1 to Dec. 31 '16	Jan. 1 to Dec. 31 '17	Jan. 1 to Aug. 24 '18	Aug. 26 to Oct. 4 '18
Chicago Cost per Buck Exhibits "B" to "G" inclusive	$205,345.38	688,483.83	836,157.55	826,312.89	560,449.74	131,053.39
Brooklyn Cost, per Buck Exhibits "H" to "M" inclusive	43,471.69	135,229.91	117,288.51	154,396.95	138,593.73	39,863.58
Toronto Cost, per Buck Exhibit "A"	15,746.47	36,333.46				
Per Adjustment Statement filed March 6, 1919:						
Item 12—Inventory of Shipping Boxes Omitted		3,089.11				
Item 26—Insurance Omitted				584.16		
Item 39—Insurance Omitted					814.65	
Item 51—Insurance Omitted						199.68
	264,563.54	863,136.31	953,446.06	981,294.00	699,858.12	171,116.65
Deduct Returned Gum @ 14c a box		1,980.86	755.86	2,018.66	865.55	23.66
	264,563.54	861,155.45	952,690.20	979,275.34	698,992.57	171,092.99
Deduct Excess Charges in respect of Shipping Boxes	91.37	654.56	498.75	432.41	513.36	857.08
	264,472.17	860,500.89	952,191.45	978,842.93	698,479.21	170,235.91
Deduct Proprietary Revenue (or War Tax) Stamps. (This tax although affecting three periods was in effect during one full year—1915 only, and in the other two periods for part of the time only it is therefore more convenient for comparative purposes to exclude it):						
Chicago	6,789.88	122,492.92	105,414.80			
Brooklyn	1,833.60	23,440.60	14,640.36			
	255,848.69	714,567.37	832,136.29	978,842.93	698,479.21	170,235.91
Deduct Items Charged as part of Doublemint Costs but which are carried in General Ledger in "Overhead" Group of accounts:						
Toronto:						
Factory Office and Packing and Shipping Department Salaries and Expense	1,267.21	2,208.89				
Administration Salaries	647.26	1,013.34				
Brooklyn						
Packing and Shipping Department Salaries and Expense	387.21	2,054.01	2,291.04	2,967.52	2,976.16	862.17
Factory Office Salaries, Supplies and Expense	675.48	2,000.09	1,891.71	2,991.38	2,747.43	1,053.20
Administration Salaries	755.91	1,761.03	1,283.23	1,846.48	1,713.56	645.63
Adjusted Cost for Comparative Purposes	252,115.62	705,530.01	826,670.31	971,037.55	691,042.06	167,674.91
Production of Doublemint—Boxes	1,303,713	3,882,427	4,310,676	4,581,687	3,259,441	684,182
Cost per Box of Doublemint as adjusted for Comparative Purposes (cents)	19.338276	18.172396	19.177277	21.193886	21.201244	24.507353
Average Cost of All Gum as Adjusted for Comparative Purposes (cents)	17.673176	18.397607	19.098697	21.968908	24.560133	24.560133
Difference in Cost per box, black figures showing excess of Doublemint over Average Costs (cents per box)	$ 1.665100	.224211	.078580	.775022	3.358889	.052780

712 The foregoing statement is, of course, much too general in its scope to permit of conclusive deductions being drawn therefrom. It was found impossible to ascertain the average cost of all gum at Chicago, Brooklyn and Toronto; such a statement would have narrowed down any differences between Doublemint Costs and average costs, and would also have shown up any inconsistencies. But, so far as it goes, it would appear from the statement submitted that the cost of Doublemint compares with the average costs pretty much as could be expected, having regard to the generalizations made preceding the statement. It was to be expected that in the first period the difference would be much greater than in any other period, except 1918. It usually happens that the production cost of a new product is relatively higher in the first year than in subsequent years, other things being equal. There is nothing in the statement submitted, nor in the accounts, to show why Doublemint costs should be less than the average cost in 1915 and slightly greater in 1916. The cost of Doublemint in the second period of 1918 was much higher than that in the first period, the chief cause being the much higher cost of chicle. For the reason that the chicle used in the fall of 1918 was much higher priced than that used in the earlier part of the year, the average cost of all gum for 1918 was much higher than the Doublemint cost for the period from January 1, to August 24, 1918, and higher, although in a much less marked degree, than that for the period from August 26, to October 4, 1918.

It would seem that the costs of Doublemint compiled by the Wm. Wrigley Jr., Company, although they may not be absolutely correct, have been ascertained on the same basis as that on which they obtained the costs of other gums, with certain exceptions.

713 In the first place, when the Wm. Wrigley Jr., Company computes its average cost per box of gum produced in each month, it takes into consideration a charge for "chicle interest" amounting to some $3,000.00 a month, which is never entered on the general ledger, and which according to the testimony of Mr. N. L. Buck, has been ignored in computing the cost of Doublemint.

There appears each month on the general ledger charge to "Chicago Factory Expense" in respect of rent. The Chicago factory is owned by the Wm. Wrigley Jr., Company; the entry does not, therefore, represent an actual outlay. Mr. N. L. Buck testified that this monthly rent charge was not

taken into consideration in ascertaining the Doublemint costs, and in the statement just submitted an adjustment was made to exclude this rent from the "Cost of Manufacture" taken from the general ledger, and used in determining the average cost of all gum.

The theory upon which the Wm. Wrigley Jr., Company proceeded was this: that having excluded the "chicle interest" charges, and the rent charge for the Chicago factory, it was entitled to charge, in the Doublemint accounting, interest on the actual capital employed in the business and depreciation on the Chicago factory buildings. The theory is sound from an accounting standpoint, provided it had been worked out correctly, and as to this, comments are made in different parts of this report. It is desired to bring out clearly the fact that interest on capital invested in the Chicago factory buildings and depreciation on those buildings are not overlapping charges. Interest on capital is chargeable because the Wm. Wrigley Jr. Company is entitled to a fair interest return upon the capital invested, depreciation is chargeable because of the wear and tear etc., on the 714 buildings used in the conduct of the business. If the depreciation were not allowed then the interest allowed on the capital invested would not represent clear return, because the depreciation would be an offsetting charge. In other words, in order to make the rate of interest ultimately allowed an effective one, the charge for depreciation has first to be admitted.

As regards Brooklyn and Toronto, only rent actually paid has been charged, although in 1915 an error was made in this respect in connection with Toronto. At first, the Toronto costs were charged with rent of buildings owned by the Wm. Wrigley Jr., Company, but a correction made in the Adjustment Statement filed March 6, 1919 rectified this—see item No. 10.

The Wm. Wrigley, Jr., Company did not make any provision on the books, for depreciation of machinery, equipment, buildings, etc., until 1914. When the books were closed at the end of 1914, the policy was adopted of providing for depreciation at the following rates:

On Motor Trucks	25% pa.
On Power Plant	20% pa.
On Machinery	10% pa.
On Buildings	5% pa.

calculated on the book balance as at December 31, less the

depreciation already provided for. This practice differs in two respects from that most commonly adopted. In the first place, it is generally conceded that the fairest method of providing for depreciation is to set aside each year an appropriate percentage of the original cost, not a percentage of the cost less the depreciation already provided for. The rates used by the Wm. Wrigley Jr., Company, except in the case of buildings, do not appear to be too high for use under the method outlined, but they may possibly be too low for
715 use under the method adopted by the Company, which is commonly called the "reducing balance" method.

The other variation from standard practice is that depreciation has been calculated upon the balance at the close of the year, thus charging a full year's depreciation on every item purchased during the year. In 1918 an inspector for the Internal Revenue Department examined the books of the Wm. Wrigley Jr., Company, and decided that this practice during 1917 had resulted in too great a depreciation charge having been made in respect of assets purchased during 1917, as somewhat extensive purchases were made during the latter half of that year. He made an adjustment in this respect for income tax purposes, and the Wm. Wrigley Jr., Company made the same adjustment on the books, passing the entry through surplus account in 1918. When preparing the original Doublemint accounts this entry was overlooked but an adjustment was made on the statement filed before the Master on March 6, 1919, item No. 30 being the adjustment referred to.

In view of the fact that the investment in machinery, equipment, etc., has been constantly increasing, it might be said that the two variations from the usual practice tend to offset one another; that is to say, computing depreciation on the balance at the end of the year tends to increase the depreciation charge, while the practice of first deducting the accumulated depreciation from the investment tends to reduce the depreciation charge. It may be said, however, that the depreciation charges as computed by the Wm. Wrigley Jr., Company are less than they would have been had the more usual "straight line" method have been followd. On the other hand due to the fact that no provision for depreciation was made until 1914, the charges for depreciation in the Doublemint Accounting are heavier than they would have been had the
716 Company started to provide for depreciation earlier, and had followed the same system.

It is possible that the machinery and equipment accounts

contain the cost of machinery etc., which was out of date at July 28, 1914. Strictly speaking, depreciation on such machinery would not be admissable as a charge in the Doublemint Accounting. This comment is occasioned by the fact that on December 7, 1916 the Wm. Wrigley Jr., Company Ltd., of Canada billed and returned to the West Virginia corporation six wrapping machines valued at $9,907.04, on the grounds that these machines were obsolete when the Canadian Company was formed early in 1916. The invoice was passed and the $9,907.04 was charged to "Chicago machinery and equipment." Of course, it must be realized that a flat depreciation rate applied to a class of machinery and equipment is not scientific and, at best can only be approximately correct.

As the Wm. Wrigley Jr., Company did not commence to provide for depreciation by setting up reserves therefor until 1914, it follows that when machinery and equipment was abandoned, scrapped or sold, and losses were incurred thereon, there would not be sufficient reserves set aside to provide for such losses. In the Doublemint Accounting there is charged Doublemint's proportion of such losses incurred, the totals, not Doublemint's proportion, being as follows:

1914	$ 4,497.80
1915	11,898.09
1916	12,779.06
1917	2,137.09
1918	2,667.60

717 These losses were ascertained in the following manner: From the cost there were deducted the reserve for depreciation accumulated on such items and the money received therefor (if any), the balance being charged to "Factory Expense" or some other such account. In view of the fact that a great proportion of these losses arises merely because the Wm. Wrigley Jr., Company did not make any provision for depreciation prior to 1914, it is recommended that Doublemint's proportion of these losses be disallowed as an expense in the Doublemint Accounting. It is generally understood that unless such losses arise from some extraordinary cause they should be charged against "Reserve for Depreciation" and not to "Profit and Loss" through some expense account, inasmuch as average rates of depreciation are supposed to provide for ordinary contingencies.

The following salaries have been charged as part of the Chicago factory cost, but they represent the compensation of Mr. A. G. Cox (for the time he was connected with the Com-

pany) and Mr. J. C. Cox who superintend or have superintended the purchasing of the important raw materials, and consequently their salaries should be apportioned to all factories:

1914	$13,749.95
1915	33,000.00
1916	12,200.00
1917	14,080.00
1918 (Jan. 1 to Aug. 31)	11,333.36
1918 (Sept. to Oct.)	2,833.32

The production of Doublemint at Chicago, except for the period in 1914, was relatively heavier, compared with the total production, than at the other factories; consequently, the method of apportionment of these salaries adopted by the Wm. Wrigley Jr., Company has resulted in an overcharge 718 against Doublemint. The amount of the overcharge will not be large, but I have not the exact production figures available to give the amount of the overcharge accurately.

Owing to the fact that I have not examined the factory records, I have not satisfied myself that Doublemint has not been overcharged in respect of light and power at Chicago. On the general ledger "light and power" is credited with services performed in heating and lighting the Chicago factory, or parts thereof, the corresponding charges being made to "real estate income" and other accounts, these charges having been taken into consideration in the Doublemint Accounting under various captions. It is not clear from the Buck Exhibits whether or not Doublemint has received its proportion of the credits for those services, and the point should be cleared up by testimony, or by examination of the records at the Chicago factory.

Turning now to the adjustment statement filed by the Wm. Wrigley Jr., Company, March 6, 1919, the following items affect manufacturing cost: #8, #19, #24, #36, and #41—all referring to depreciation of the factory buildings at Chicago, no charge for which was made in the Doublemint Accounting except for the period from July 28, 1914 to December 31, 1914; #12 charging Doublemint's proportion of the inventory of shipping boxes as at January 1, 1915, which was not taken into account on the original statement; #23 charging Doublemint's proportion of loss consequent upon the cancellation of the lease of the Brady Foundry Company; #26, #39 and #51 charging Doublemint's proportion of insurance

omitted in the original costs; #29 crediting Doublemint's proportion of an amount charged to expense and disallowed by the Internal Revenue Department on the ground that
719 it ought to have been capitalized; #30 crediting Doublemint's proportion of an adjustment made in 1918 of the depreciation charged off in 1917 and Disallowed by the Internal Revenue Department (this item has already been referred to and explained); and #41 crediting Doublemint's proportion of garage rent charged to Motor Truck Expense. These groups will be commented upon separately.

It has already been stated that depreciation on buildings is a proper charge in the Doublemint Accounting, in addition to interest on invested capital. For the period from July 28 to December 31, 1914, depreciation on the Chicago factory buildings was included in the overhead, but apart from that no charge was made in the Doublemint Accounting until this adjustment statement was filed. Depreciation on buildings is not an overhead expense, but part of the manufacturing cost and should have been treated as such. In the adjustment statement now referred to the Wm. Wrigley Jr., Company has used an incorrect basic valuation of the Chicago factory buildings. Until the end of 1914 no attempt was made to segregate the value of the land from that of the buildings, but an appraisal of the land was then made by Mr. J. C. Cox, since when separate accounts have been kept in respect of "real estate" and "buildings." But the "buildings account" included buildings other than those in which the Chicago factory was housed, and consequently it became necessary to segregate these values. The Company did not make this segregation accurately, arbitrarily valuing these other buildings at $200,000.00 as at December 31, 1914, and furthermore additions to these buildings in subsequent years were ignored. Consequently, the depreciation charges claimed in the adjustment statement should be amended as follows:

720

		Wrigley's Charge	Revised Charge	Additional Charge
Item 8	Jan. 1 to Dec. 31, 1915	$ 7,199.63	7,341.99	142.36
Item 19	Jan. 1 to Dec. 31, 1916	6,096.99	6,205.88	108.89
Item 24	Jan. 1 to Dec. 31, 1917	4,643.83	4,730.09	86.26
Item 36	Jan. 1 to Aug. 24, 1918	2,680.63	2,840.08	159.45
Item 44	Aug. 25 to Oct. 4, 1918	564.13	874.12	309.99
Total		$21,185.21	21,992.16	806.95

The revised charges have been computed on the "reducing balance" method adopted by the Wm. Wrigley Jr., Company, the rate used being 5%, which rate has been approved by the Internal Revenue Department, although it seems rather high. It is stated however that there are some old buildings included in the property. If depreciation had been provided for from the time the property was acquired, the depreciation charges in the Doublemint Accounting under the system adopted by the Wm. Wrigley Jr., Company would, of course, have been lower.

The amended charges which have been suggested in this report to cover shipping boxes will automatically take care of adjustment item #12 which becomes unnecessary, although it is a proper adjustment if the suggestions made in this report are not followed.

Item #23 charges Doublemint during the year 1917 with $14,247.67 being Doublemint's proportion of a loss of $88,-696.47 incurred because of the cancellation of two leases of the Brady Foundry Company, tenant of the Wm. Wrigley Jr., Company, The Brady Foundry Company held two leases; (1) dated Jan. 1, 1911 and expiring December 31, 1930 and (2) dated August 20, 1915 expiring September 30, 1922. These leases were cancelled by mutual agreement, the Wm. Wrigley Jr., Company paying the Brady Foundry Com-
721 pany $50,000.00 in consideration therefor. Other clauses provided that the buildings occupied by the Brady Foundry Company should be demolished and that that concern should acquire the steel, etc., from the demolition. The chief causes for the cancellation were two; in the first place, the smoke and grit from the foundry rendered the Brady Foundry Company very undesirable tenants of buildings so close to those in which chewing gum was made, the Wm. Wrigley Jr., Company being put to considerable expense to prevent the chewing gum from being damaged; and in the second place, the space occupied by the buildings used by the Brady Foundry Company was required by the Wm. Wrigley Jr., Company. The total loss of $88,696.47 is ascertained as follows:

Cash paid Brady Foundry Company		$50,000.00
Loss on Buildings torn down:		
Appraised sound value determined by American Appraisal Company early in 1914	$45,133.64	
Less Proportion of Depreciation Reserve as at December 31, 1916 applicable to these buildings	6,437.17	38,696.47
Total Loss as above		$88,696.47

The appraisal report was not available for inspection so the figures given above are taken from the records of the Wm. Wrigley Jr., Company. In view of the all the circumstances it would appear to be improper to charge off all this loss in one year, and there is grave doubt of the propriety of charging any proportion of the loss in the Doublemint Accounting, as the loss appears to have been incurred solely for future betterments.

On several of the Buck Exhibits there are notations to the effect that no insurance was charged into the cost. An
722 inquiry was made to ascertain the reason for these notations, and it developed that additional charges as made in items #26, #39 and #51 were necessary to rectify the omissions. These additional charges have not been checked, as to do so would necessitate an examination of the factory records.

Item #29 credits Doublemint with $8,576.05 in 1917 being Doublemint's proportion of $53,388.78 credited to surplus in 1918, reversing a charge made to factory expense in 1917 for loss on dismantling old cafeteria and restaurant and the installation of a new cafeteria and restaurant and an air conditioning system. The Internal Revenue Department decided that this $53,388.78 was capital expenditure and should not have been charged off to profit and loss. The books of the Wm. Wrigley Jr., Company were adjusted in 1918 in conformity with this decision, but this entry was overlooked when the original statements in the Doublemint Accounting were being prepared.

In Item #41 Manufacturing Cost was credited with $127.60 being Doublemint's proportion of garage rent charged to Motor Truck Expense and therefore as part of the Chicago Factory Expense. In February, 1918, the Wm. Wrigley Jr., Company commenced to charge Motor Truck Expense with

$120.00 a month rent the corresponding credit being made to "Real Estate Income." This charge should be excluded from the Doublemint accounting because interest on invested capital has been charged in lieu of rent of buildings owned by the Company.

This correction is correct. But it hardly goes far enough. In Buck Exhibit "G" Doublemint is charged with a proportion of $240.00 being the garage rent for September and October. In the present accounting Doublemint should be relieved of its proportion of this amount.

723 No examination has been made for the purpose of determining whether or not items which should have been capitalized were charged to expense through the factory costs accounts, as the manufacturing costs have been accepted by Mr. Aldrich.

In 1915 the Wm. Wrigley Jr., Company wrote off $23,276.46 in respect of expenditures made in securing a concession in Peon Molina, Mexico. Of this amount $20,980.11 had been spent prior to January 1, 1914. Owing to revolutionary troubles in Mexico, no chicle was ever obtained from this concession. Doublemint was charged in 1915, on the bases of the Doublemint production at Chicago as compared with the total production at that factory, with its proportion of $23,276.46. The question arises as to the validity of any such charge. The Wm. Wrigley Jr., Company states that the expenditure was ascertained to be a total loss in 1915. In any event, the percentage charged to Doublemint should be based on total production, and not on the Chicago production, if indeed, the overhead percentage should not be used.

In 1915, $12,804.58 and in 1916, $678.76 was credited in respect of profit made on a concession in Guatemala. When this concession was secured "Guatemala Concession Account" was charged with the cost of securing it, and the account was credited, and cost of chicle charged with a royalty. The amounts credited in 1915 and 1916 represent therefore royalties credited after the original expenditure had been balanced. From an accounting point of view the theoretically correct method of handling the matter is to ascertain the number of pounds of chicle obtained from the concession, divide this figure into the cost, and to charge cost of gum

724 made during the accounting period with the proportion of the cost of the concession based upon the number of pounds of chicle used as compared with the total number of pounds of chicle obtained from the concession. In other

words, the credits should be ignored as they arise solely from the fact that the cost of chicle obtained prior to December 31, 1914 was loaded with too heavy a royalty expense. On the other hand, it is possible that a lot of this chicle bearing this too heavy royalty expense was used during the accounting period. In 1914 from January to December—this "Guatemala Concession Account" was credited with $11,049.54 although the cost of obtaining the concession had been extinguished. It is very improbable that any appreciable part of the chicle obtained from the concession in 1914 was used prior to the accounting period. However only the credits for 1915 and 1916 were brought into account, although it would seem that by the same reasoning the credit in 1914 of $11,049.54 should be brought into account. Doublemint's proportions of the 1915 and 1916 credits have been based on the Chicago production, but the total production at all factories would be a fairer basis.

725 Overhead

Before entering into an analytical discussion of the propriety or otherwise of the items included by the Wm. Wrigley Jr., Company under the heading of "Overhead" it is desired to make a few general statements.

The Wm. Wrigley Jr., Company has apportioned the overhead on the proportion between Doublemint sales as shown by this accounting and the total net sales as shown by the General Ledger. These total sales include items other than gum; for instance, premiums and miscellaneous sales. Furthermore, the standard brands of gum are sold at a higher price a box than are the "off" brands. The expense of billing, and the routine handling through the office, in connection with the "off" brands of gum must be the same as for the standard brands, when reduced to a box unit basis. All things considered, it is suggested that a fairer bases of apportionment of overhead would be the ratio between the number of boxes of Doublemint and of all gum delivered by the factories to the shipping department—in other words, approximately on the bases of sales in boxes rather than values.

It might be considered advisable, for the broken period in 1914 and the broken periods in 1918, that the total overhead for the full years 1914 and 1918 should be divided by the total sales, either in values or boxes, thus getting unit costs, which could be multiplied by the number of Doublemint units

in the respective periods, in order to obtain the total overhead for those periods. It is always difficult to obtain the correct overhead for broken periods—there are no inventories to correct the accounts at the proper dates, and payments of a periodical nature are not allowed, roughly speaking to
726 equalize themselves, as they do when full years are taken as the bases. For the period from July 28, to December 31, 1914, the overhead was taken from August 1, to December 31, 1914, and apportioned according to the sales for the same period. For the period from January 1, to August 24, 1918, the overhead was taken from January 1, to August 21, 1918, while the sales, according to which the overhead was apportioned, were taken from January 1, to August 24, 1918. The overhead for the period from August 25, to October 4, 1918 was taken to be the overhead for the month of September plus 4/31 of the month of October, and it was apportioned on the basis of the sales from August 25, to October 4, 1918. For the period from October 5, to November 12, 1918, the overhead was computed on the basis of 27/31 of the month of October and 12/30 of the month of November, and it was apportioned as between Doublemint and other gum on the basis of the sales from October 5, to November 12, 1918.

It was observed in checking the overhead accounts that the expenditures in connection with the foreign business were quite large. Mr. Stanley was asked if as much Doublemint, in proportion to the other brands of gum, was sold in foreign countries as was sold in the United States, and his answer was in the negative. Assuming that this answer is accurate then Doublemint has been overcharged in respect of these foreign trade expenses; a lot depends, of course, on the discrepancy between the respective proportions, as if the total foreign sales were excluded from the total sales, and the Doublemint foreign sales from the total Doublemint sales, then the proportion of domestic overhead applicable to Doublemint would be increased as a matter of course. In order to decide the amount of overcharge in the Doublemint accounting in respect of this foreign business overhead, it would be necessary to analyze the overhead accounts
727 to segregate the foreign business expense and to analyze the total sales to segregate the total foreign sales. This would be an undertaking of considerable magnitude, and it has not been attempted. The point is raised here, however, in case it should be deemed worthy of attention.

In verifying the overhead, sufficient original vouchers were

examined to establish the general accuracy of the entries in the books of account. Consequently self-explanatory entries in the books were passed without question. Large items were verified by inspection of original vouchers. In general, vouchers were called for in verification of amounts over $1,000.00, but not all such amounts were so verified, if the entries in the books were so clear that it was obvious that the items were in order. On the other hand, where the entries were not clear, vouchers were examined for items of less than $1,000.00, but rarely was any attention paid to items less than $500.00.

The following statement shows of what the total overhead for each period consists, and also how the proportion charged to Doublemint in each period was ascertained. In the preparation of this statement, the original accounts filed by the Wm. Wrigley Jr., Company and the adjustment statement filed March 6, 1919 have been consolidated to facilitate matters.

COMPARATIVE STATEMENT OF "OVERHEAD" AS COMPUTED BY THE WM. WRIGLEY JR., COMPANY AND USED IN THE DOUBLEMINT ACCOUNTING, INCORPORATING THE CORRECTIONS IN THE ADJUSTMENT STATEMENT FILED MARCH 6, 1919

	July 28, 1914 to Dec. 31, 1914	Jan. 1, 1915 to Dec. 31, 1915	Jan. 1, 1916 to Dec. 31, 1916	Jan. 1, 1917 to Dec. 31, 1917	Jan. 1, 1918 to Aug. 24, 1918	Aug. 25, 1918 to Oct. 4, 1918	Oct. 5, 1918 to Nov. 12, 1918
Postage	$ 31,436.58	31,959.04	29,847.60	26,031.32	11,696.96	1,052.90	1,102.78
Commission	4,898.81	14,823.09	18,378.45	132,324.65	*472.04*		
Circular Department Salaries	7,421.28	21,989.85	25,993.21	25,282.05	15,318.10	1,663.91	1,866.54
Merchandise—Salesmen	13,964.51	37,616.94	40,576.11	56,181.35	32,916.75	6,056.57	5,879.18
Geo. F. Desbien	648.98						
Paris Expense	2,780.63						
Interest on Notes Payable	6,974.84						
Discount	51,871.31	149,724.49	193,730.52	261,551.44	206,159.12	20,493.42	26,336.03
Exchange	3,268.22	8,533.44	8,337.96	7,868.39	6,406.46	605.96	651.35
Out Freight on Sales	69,984.25	193,801.09	266,481.46	310,670.14	235,360.15	27,720.48	39,960.45
Express on Sales	18,913.25	42,043.52	54,911.45	71,938.05	35,702.29	7,437.90	5,973.54
Rent	6,175.00	15,330.00	18,260.00	18,960.00	13,000.00	1,834.68	2,065.32
Taxes—Real Estate—Factory	14.28	13,165.91	11,774.83	12,787.12	13,004.66		
Administration	49,999.93	107,416.69	107,431.66	113,816.00	80,666.72	11,384.39	24,915.58
Expense—Miscellaneous	52,777.92	42,058.75	26,529.99	69,346.53	46,630.57	2,399.13	21,389.89
Auditing Department Salaries	33,102.80	97,180.40	119,756.59	147,317.60	113,204.46	13,746.21	17,680.90
Agencies	43,609.14	95,982.61	160,163.79	131,001.05	59,403.16	3,828.58	14,473.70
Documentary Revenue Stamps	300.00	1,867.11	1,673.78				
Bad Debts	12,590.26	10,057.33	14,495.78	14,672.19	*2,415.16*	*49.15*	161.63
Insurance	3,01	200.47					
Depreciation of Buildings	18,564.90						
Maintenance of Toronto Building		*2,247.51*					
Office Stationery, Circulars, etc.	10,054.10	29,897.00	90,709.61	56,414.62	8,413.84		
Advertising—Miscellaneous	305.78	1,119.92	1,105.34	819.00	1,078.70		
Paris Advertising Matter	679.60						
Accounts Closed Out	*110.60*	38,215.28	30,527.08	*1,885.48*	*890.55*	*146.86*	4,609.02
Taxes—Personal Property		4,866.40	6,414.84	7,135.56	5,727.44		
Taxes—Corporation Tax		1,550.00	1,550.00	3,462.50	10,000.31		
Canada Business Profits War Tax			12,000.00				
Australian Organization Expense			10.00				
Trade Discounts				39,590.58	109,786.96	1,539.01	17,208.63
Taxes—Capital Stock				13,495.25	11,591.50		
Brooklyn Moving Expense					5,705.70	32,894.75	73,770.37
Taxes—Essential Oil					323.95		
Depreciation of Office Furniture and Fixtures					2,455.36	346.52	
War Tax on Sales				66,166.09	220,511.79	23,412.27	30,743.53
Detail Men—Salaries and Expenses						3,029.49	3,688.39
Illinois Manufacturers' Association						25.00	
Reserve for Taxes						*41.80*	
Export Rebates	*1,039.05*	*8,884.69*	*1,800.77*	*6,484.75*			
Profit on Claims	*1,604.18*	*4,918.65*	*7,057.94*	*14,392.58*	*12,786.24*	*1,439.07*	*1,884.08*
Interest on Bank Balances		*7,501.79*	*11,662.28*	*14,404.02*	*17,866.29*	*4,815.05*	*4,319.88*
Total Overhead	$437,585.57	935,846.69	1,220,149.06	1,549,664.65	1,210,636.88	152,979.26	286,272.87

Overhead

COMPARATIVE STATEMENT OF "OVERHEAD" AS COMPUTED BY THE WM. WRIGLEY JR., COMPANY AND USED IN THE DOUBLEMINT ACCOUNTING, INCORPORATING THE CORRECTIONS IN THE ADJUSTMENT STATEMENT FILED MARCH 6, 1919

	July 28 to Dec. 31 '14	Jan. 1 to Dec. 31 '15	Jan. 1, to Dec. 31 '16	Jan. 1, to Dec. 31 '17	Jan. 1, to Aug. 24 '18	Aug. 25, to Oct. 4 '18	Oct. 5, to Nov. 12 '18
Charges made in Doublemint Accounting in respect of Overhead:							
16.1927% of $ 437,587.57*	$ 70,857.04						
18.6920% of 935,846.09		174,928.46					
16.4229% of 1,220,149.06			200,383.85				
14.9424% of 1,549,664.65				231,557.09			
14.9042% of 1,210,636.88					180,435.75		
19.8089% of 152,979.26						30,303.50	
2.5433% of 286,272.87							7,280.92
Item No. 52 on Adjustment Statement filed March 6, 1919, credited to wrong period						2,226.31	*2,226.31*
Charges made in Doublemint Accounting in respect of Overhead	$ 70,857.04	174,928.46	200,383.85	231,557.09	180,435.75	32,529.81	5,054.61

The percentages used above are the percentages of Doublemint sales to total sales for the periods indicated.

*This should be $437,585.57.

730 The various items shown in the foregoing statement will now be commented upon, and it will be shown what items are considered correct, what items are clearly improper, and what items are of doubtful propriety. In view of the many open questions, no attempt will be made to show the correct amounts chargeable to Doublemint.

Postage. The following charges were made in the total overhead in respect of postage:

Period		Amount
July 28, to December 31, 1914		$31,436.58
January 1, to December 31, 1915.		31,959.04
January 1, to December 31, 1916.		29,847.60
January 1, to December 31, 1917		26,031.32
January 1, to August 24, 1918—Per General Ledger, January 1,, to August 31, 1918.		11,696.96
August 25, to October 4, 1918:		
Per General Ledger,		
September	$937.88	
October 4-31 of $891.40	115.02	1,052.90
October 5 to November 12, 1918:		
Per General Ledger:	776.38	
October 27-31 of $891.40	326.40	
November—12-30 of $816.00		1,102.78

This item is self-explanatory. The only question in connection with this account is whether or not the postage on samples included in the advertising charge has been worked out on the same basis on which credits were made to this account in that respect; this can only be determined when the advertising accounts are analyzed.

Commission. The total overhead included the following items charged on the books to "Commission Account":

Period		Amount
July 28, to December 31, 1914		$ 4,898.81
January 1, to December 31, 1915		14,823.09
January 1, to December 31, 1916		18,378.45
January 1, to December 31, 1917		132,324.65
January 1 to August 24, 1918	Credit	472.04

731 The "Commision Account" covers sundry allowances made on Sales Ledger Accounts and sundry refunds made when salesmen, not having quite the necessary volume of sales to obtain premiums, paid the balance in cash, sub-

sequently receiving back the cash after obtaining the necessary sales. In 1917, however, until October, trade discounts, of the nature explained under the caption "Trade Discounts" were posted to this account.

Circular Department Salaries This account covers salaries paid to office employees whose chief duties are preparing, mailing circulars, working up premium "deals" etc. The following charges were made in the total overhead:

Period		Amount
July 28, to December 31, 1914		$ 7,421.28
January 1, to December 31, 1915.		21,989.85
January 1, to December 31, 1916		25,993.21
January 1, to December 31, 1917		25,282.05
January 1, to August 24, 1918—Per General Ledger, January 1, to August 31		15,318.10
August 25 to October 4, 1918:		
Per General Ledger:		
September	$1,491.65	
October—4/31 of $1,335.00	172.26	1,663.91
October 5, to November 12, 1918;		
Per General Ledger:		
October—27/31 of $1,335.00	1,162.74	
November—12/30 of $1,759.50	703.80	1,866.54

In November 1918, the employees were paid an extra week's salary on the condition that a fixed percentage was paid to the Red Cross and other charities.

Merchandise-Salesmen. This account on the General Ledger is styled "Salesmen's Premiums Account," which covers the cost of premiums given to jobbers' salesmen as an 732 incentive to push the sales of Wrigley's gum. The following amounts were charged in the total overhead during the period:

Period		Amount
July 28, to December 31, 1914		$ 13,964.51
January 1, to December 31, 1915.		37,616.94
January 1, to December 31, 1916.		40,576.11
January 1, to December 31, 1917		56,181.35
January 1, to August 24, 1918—Per General Ledger, January 1, to August 31		32,916.75
August 25, to October 4, 1918;		
Per General Ledger		
September	$ 5,323.01	
October—4/31 of $5,685.07	733.56	6,056.57
October 5, to November 12, 1918;		
Per General Ledger:		
October—27/31/ of $5,685.07	4,951.51	
November—12/30 of $2,319.18	927.67	5,879.18

The charges in 1915 should be reduced by $4,402.51 as #25 U. P. S. Coupons given to salesmen were charged in that year to this account, upon redemption. The charges made in the Doublemint accounting in respect of U. P. S. Coupons cover items of this nature.

There is some slight unavoidable overlapping between this account and "Profit and Loss on merchandise sold with Doublemint." Salesmen had the option of choosing premiums listed in the regular catalogs, and if salesmen chose any of which a stock record was kept, then the cost of those premiums is taken into account in both places, although in the Profit or Loss on merchandise shipped with Doublemint" the assumed sales value of the merchandise is taken into account as an offset. All things considered, it is felt that this point may equitably be ignored.

Geo. F. Desbien 733 — Mr. Desbien was the representative of the Wm. Wrigley Jr., Company in the Far East, operating the Wrigley Japanese company. As no Doublemint, according to Mr. Stanley, was shipped to Japan until 1915, it does not seem to be equitable to charge Doublemint with any proportion of the $648.98 written off Geo. F. Desbien's account and included in the total overhead for the period from July 28, to December 31, 1914.

Paris Expense — In the total overhead for the period from July 28, to December 31, 1914, $2,780.63 is included under "Paris Expense." This item is made up as follows:

W. H. Stanley, Salary at Paris	$1,249.98
W. H. Stanley, Traveling Expenses removing to America	225.55
Expenses of running Paris office	1,305.10
Total	$2,780.63

Mr. Stanley opened the Paris Office just prior to the outbreak of the war. As no Doublemint was sold in France until 1916 (per Mr. Stanley), it would appear that with the exception of Mr. Stanley's expenses to America to join the American organization—$225.55, none of this amount of $2,780.63 should be charged against Doublemint.

Interest on Notes Payable—$6,974.84 — In the period from July 28 to December 31, 1914 an item of $6,974.84 is included under the heading of "'Interest on Notes Payable." The composition of this amount is as follows:

Interest on Frank F. Pulver Notes—one year		$ 9,000.00
Interest on Bonds on Factory Building Purchased		6,304.50
		15,304.50
Less:		
Interest and Discount on Gary School 6% Warrants	$1,304.84	
Interest on advances for Materials	437.50	
Interest on Bank Balances, entered from August 1, to December 31	6,587.32	8,329.66
Charged as Overhead		$ 6,974.84

734 Interest on the Pulver notes should be reduced from one year's interest tc five months. An analysis of the interest on the bonds on the factory building shows the composition of the amount of $6,304.50 to be as follows:

Premium Paid on Purchase of Bonds	$2,782.50
Interest from May 1, to August 1,	1,822.50
Interest from August 1, to date of redemption	1,699.50
Total	**$6,304.50**

It would seem that only the interest from August 1, to the date of the redemption of the bonds, amounting to $1,699.50 can be considered in this accounting.

The interest on the Gary School warrants should be excluded as the warrants were not included in invested capital. If it should be decided to include these warrants as invested capital, then the interest will remain as income. The changes suggested will result in the item of "Interest on Notes Payable" being changed to the figure shown in the following statement:

Interest on Bank Balances		$ 6,587.32
Interest on Advances for Materials		437.50
		7,024.82
Less:		
Interest on Frank F. Pulver Notes, 5 months	$ 3,750.00	
Interest on Bonds on Factory Building Purchased, from August 1, to date of redemption	1,699.50	5,449.50
To be credited to Overhead		$ 1,575.32

The interest for the subsequent periods will be found under the title "Interest on Bank Balances."

735 Discount. The "Discount Account" on the books of the Wm. Wrigley Jr., Company is used for discount on sales and discount on purchases. The following charges were made in respect thereof in the total overhead:

Period		Amount
July 28, to December 21, 1914		$ 51,871.31
January 1, to December 31, 1915		149,724.49
January 1, to December 31, 1916		193,730.52
January 1, to December 31, 1917		261,551.44
January 1, to August 24, 1918—Per General Ledger, January 1 to August 31		206,159.12
August 25, to October 4, 1918		
Per General Ledger;		
September	$ 17,774.64	
October—4/31 of $21,070.54	2,718.78	20,493.42
October 5, to November 12, 1918:		
Per General Ledger;		
October—27/31 of $21,070.54	18,351.76	
November—12/30 of $19,960.67	7,984.27	26,336.03

Discount is an item of overhead which strictly speaking cannot be taken in periods corresponding with the periods with which the Doublemint accounting is divided; for instance, a good part of the discount for August 1914 would refer to sales made in July 1914, before the marketing of Doublemint was commenced. It is assumed that this discount would be offset by discount not taken on sales of Doublemint before the close of accounting period, but it must be remembered that all the sales accounted for in the period from October 5, to November 12, 1918 were foreign sales. It has not been considered worth while to analyze the discounts at the beginning and end of the accounting period, as to have done so would have involved a great deal of labor.

There is a certain amount of expense included in the discount in respect of loss of exchange on foreign business. The amount has not been ascertained.

736 Exchange This account covers bank exchange on collections. The following charges have been made in the total overhead in the Doublemint accounting:

Period		Amount
July 28, to December 31, 1914		$ 3,268.22
January 1, to December 31, 1915		8,533.44
January 1, to December 31, 1916—		
Per General Ledger	$ 8,557.10	
Deduct Exchange on remittances from Melbourne charged to Surplus Account in 1917	219.14	8,337.96
January 1, to December 31, 1917		7,868.39
January 1, to August 24, 1918—Per General Ledger, January 1, to August 31, 1918		6,406.46
August 25, to October 4, 1918:		
Per General Ledger:		
September	537.17	
October—4/31 of $533.09	68.79	605.96
October 5, to November 12, 1918:		
October—27/31 of $533.09	464.30	
November—12/30 of $467.64	187.05	651.35

Out Freight on Sales. The Wm. Wrigley Jr. Company pays freight on all its shipments to its customers, and the following statement gives the amounts included in the total overhead for the purposes of the Doublemint accounting:

Period			Amount
July 28, to December 31, 1914			$ 69,984.25
January 1, to December 31, 1915:			
Per General Ledger		$ 206,472.90	
Deduct:			
Freight and Express charges on shipments to Melbourne in 1915 charged to the Australian Co. in 1916 and credited to Surplus Account	$ 5,462.51		
Freight on shipments to London, in 1915 charged to the English Company in 1916 and credited to Surplus Account	7,209.30	12,671.81	193,801.09

737

Period			Amount
January 1, to December 31, 1916:			
Per General Ledger		$ 285,636.01	
Deduct:			
Freight charges on advertising matter shipped to Australia in 1915 and 1916 charged to Australian Company in 1917 and credited to Surplus Account	$ 134.42		
Excess Freight charges paid in 1916 charged to Wrigley's Ltd. London in 1917, and credited to Surplus Account	19,020.13	19,154.55	266,481.46
January 1, to December 31, 1917			310,670.14
January 1, to August 24, 1918—Per General Ledger, January 1, to August 31			235,360.15
August 25, to October 4, 1918:			
Per General Ledger:			
September		23,421.55	
October—4/31 of $33,316.75		4,298.93	27,720.48
October 5, to November 12, 1918:			
Per General Ledger:			
October—27/31 of $33,316.75		29,017.82	
November—12/30 of $27,356.58		10,942.63	39,960.45

737 The inventory of parcel post stamps on hand as at January 1, 1918 amounting to $1,526.16 has not been taken into consideration in the periods in 1918, nor has that as at December 31, 1914 amounting to $223.68 been taken into the 1914 period.

Express This account is practically of the same nature as the one just commented upon. The charges made for express in the total overhead are as follows:

Period		Amount
July 28, to December 31, 1914		$ 18,913.25
January 1, to December 31, 1915		42,043.52
January 1, to December 31, 1916		54,911.45
January 1, to December 31, 1917		71,938.05
January 1, to August 24, 1918—Per General Ledger, January 1, to August 31		35,702.29
August 25, to October 4, 1918:		
Per General Ledger:		
September	$ 6,842.54	
October—4/31 of $4,614.07	595.36	7,437.90
October 5, to November 12, 1918:		
Per General Ledger:		
October—27/31 of $4,614.07	4,018.71	
November—12/30 of $4,887.09	1,954.83	5,973.54

738 Rent This item covers the rent of the downtown office at 5 North Wabash Avenue. The following charges were made in the total overhead in respect thereof:

Period		Amount
July 28, to December 31, 1914		$ 6,175.00
January 1, to December 31, 1915		15,330.00
January 1, to December 31, 1916		18,260.00
January 1, to December 31, 1917		18,960.00
January 1, to August 24, 1918—Per General Ledger, January 1, to August 31,		13,000.00
August 25, to October 4, 1918:		
Per General Ledger		
September	$ 1,625.00	
October—4/31 of $1,625.00	209.68	1,834.68
October 5, to November 12, 1918;		
Per General Ledger		
October—27/31 of $1,625.00	1,415.32	
November—12/30 of $1,625.00	650.00	2,065.32

Real Estate Taxes—Factory The nature of this item is self-explanatory, the taxes covered being those on the real estate at the Chicago factory. Inasmuch as the payments covering such taxes were not posted to an account taken into consideration in computing the factory costs, it would seem to be clear that the real estate taxes on the Chicago factory are not included in the manufacturing costs, but as of course those costs have not been checked in detail, this statement cannot be made with the authority definite proof would give. The charges made in the total overhead in the Doublemint accounting consist of actual payments made, the periods in which those payments are included depending solely on the dates of payment; the charges are as follows:

Period	Amount
July 28, to December 31, 1914	14.28
January 1, to December 31, 1915	13,165.91
January 1, to December 31, 1916	11,774.83
January 1, to December 31, 1917	12,787.12
January 1, to August 24, 1918—Per General Ledger	
January 1, to August 31, 1918	13,004.66

739 Real Estate Taxes on the Chicago factory should have been included with the Chicago manufacturing costs, rather than with the overhead the proportion which Doublemint should bear is not the overhead percentage, but a proportion ascertained by stating the Chicago Doublemint production as one factor, and the total Chicago production as the other.

Furthermore, the year in which the taxes are paid is not the year for which they are assessed. Thus the real estate taxes assessed for the year 1914 were paid in 1915, and so forth. On the principle of charging taxes against the year for which they are assessed the following statement of real estate taxes should be substituted for that given above:

Period	Amount
July 28, to December 31, 1914—5/12 of $13,165.91 (tax paid in 1915)	$ 5,485.89
January 1, to December 31, 1915—tax paid in 1916	11,782.63
January 1, to December 31, 1916—tax paid in 1917	12,787.12
January 1, to December 31, 1917—tax paid in 1918	13,004.66
January 1, to August 24, 1918—2/3 of $12,216.30 tax paid in 1919	8,144.20
August 25, TO October 4, 1918—1/12 of $12,216.30 for September plus 4/31 of 1/12 of $12,216.30 for October	1,149.38
October 5, to November 12, 1918—27/31 of 1/12 of $12,216.30 for October, plus 12/30 of 1/12 of $12,216.30 for November	1,293.87

Administration. This item represents the salaries of the officers of the Wm. Wrigley Jr., Company, of of employees engaged in executive capacities, with the exception, of course, of those whose salaries were charged to manufacturing cost under the caption "Factory Administration". The charges included in the total overhead for administrative salaries are as follows:

740 Period		Amount
July 28, to December 31, 1914		$ 49,999.93
January 1, to December 31, 1915		107,416.69
January 1, to December 31, 1916		107,431.66
January 1, to December 31, 1917		113,816.00
January 1, to August 24, 1918—Per General Ledger, January 1, to August 31		80,666.72
August 25, to October 31, 1918		
Per General Ledger:		
September	$ 10,083.32	
October—4/31 of $10,083.32	1,301.07	11,384.39
October 5, to November 12, 1918:		
Per General Ledger		
October—27/31 of $10,083.32	8,782.25	
November—12/30 of $40,333.32	16,133.33	24,915.58

740 In November 1918, the Wm. Wrigley Jr. Company paid its officers three months' additional salary with the understanding that a minimum percentage thereof was to be given to the Red Cross and other charities. If this is a legitimate charge at all, there would appear to be good arguments for the theory that this additional salary should be spread over the whole of 1918, and not thrown into any particular period.

Expense This item is so complex in its nature that a summarized analysis is given for each period. For the period from July 28, to December 31, 1914, $52,777.92 was charged in the total overhead in the Doublemint accounting; the composition of this item is as follows:

741 Summary of Expense Account

	Debit	Credit
1914, August 1, to December 31;		
James R. Offield:		
Retainer	$5,000.00	
Expenses	170.59	
Heating, Shipping Department and Factory Office for year 1914	2,115.66	
Labor putting War Tax Stamps on West Coast Stock	438.23	
Expense in connection with War Tax Legislation, etc.	500.00	
Christmas presents to Office Employees, etc.	1,065.00	
Frank F. Pulver—Note	30,000.00	
Misappropriations by Employees refunded by Bonding Co:		
Prior to August 1, 1914		971.61
After August 1, 1914		1,328.03
Expense in connection with Picnic Gum charged against Sales Department by Factory	1,410.16	
Miscellaneous Sales at Brooklyn, credited in the first place to "Sales Account" and afterwards to "Factory Expense" by crediting that account and charging "Expense	831.13	
Rental of Chicago Factory Shipping Department—not actually paid, the corresponding credit being to "Real Estate Income"	4,375.00	
Brooklyn Packing and Shipping Department Salaries	1,878.23	
Miscellaneous Office Expense, Storage, etc.	8,756.60	
Freight etc., charged back against creditors		1,295.04
Miscellaneous Sales		6.49
Miscellaneous Expense at Brooklyn	491.35	
Miscellaneous Adjustments made to Sales Ledger Accounts	481.88	
Refunds from Transportation Companies for items other than "Claims"; refunds on travelling advances; miscellaneous sales to employees; and other miscellaneous items		1,602.48
Insurance (chiefly); repairs to vending machines on Elevated Station platforms (no portion of which is, strictly speaking, chargeable against Doublemint, but the amount is very minor); office supplies and miscellaneous purchases	1,923.56	
Depreciation for full year of 1914 on Motor Trucks and Main Office Fixtures	6,982.20	
Carried Forward	$ 66,419.59	5,293.65

742 Summary of Expense Account, Continued

	Debit	Credit
Brought Forward	$ 66,419.59	5,293.65
1914, August 1, to December 31, Continued:		
Inventory as at December 31, 1914		2,094.79
Brooklyn Packing and Shipping Department Salaries charged to Manufacturing Cost		1,878.23
Rental of Chicago Factory Shipping Department—excluded from Doublemint Accounting, Interest on Invested Capital being charged		4,375.00
Charged as overhead in Doublemint accounting		52,777.92
	$ 66,419.59	66,419.59

742 The first item calling for comment is the retainer of Mr. J. R. Offield, general counsel for the Wm. Wrigley Jr., Company. This retainer fee is $10,000.00 a year; for the period of from July 28, to December 31, 1914, the sum of $5,000.00 is charged, although, strictly speaking, only 5/12 of $10,000.00 or $4,166.66 is chargeable. And, of course, there is the question of whether or not any expense of contesting the present Doublemint suit is chargeable in this accounting. As far as Mr. Offield is concerned his services were covered by the general retainer.

It will be observed that a full year's heating for the Chicago shipping department and factory office is charged. This is incorrect and should be reduced to the five months basis.

It is questionable of Christmas presents to employees should not be spread over the whole year.

The item "Frank F. Pulver—note $30.000," calls for an explanation. Frank F. Pulver had a suit against the Wm. Wrigley Jr., Company for an infringement of a label. This suit was settled by general agreement whereby the
743 Wm. Wrigley Jr., Company purchases the business of Frank F. Pulver. The consideration was $10,000.00 cash paid in December 1913, and a further $150,000.00 in notes payable $30,000.00 in December of the years 1914, 1915, 1916, 1917 and 1918. The agreement provided that Frank F. Pulver should not engage in the chewing gum business for five years and that if he broke the agreement in this respect, all notes subsequently falling due should be cancelled. Apparently there were five parties to the agreement on Pulver's side, four being companies controlled by Pulver, and the fifth Pulver himself. The actual agreement was not produced for inspection, a draft agreemnt only being available for perusal. It is believed, however, that counsel for the L. P. Larson Jr. Company are familiar with the agreement. From an accounting standpoint there is not much justification for the procedure adopted by the Wm. Wrigley Jr. Company; the payments made to Pulver were simply charged off to Profit and Loss in the year in which they were made. Theoretically there are two sound courses; (1) capitalize the whole $250,000.00 as an addition to goodwill or (2) write off the $250,000.00 in equal installments over a term of years. The second course would probably be adopted in conservative business practice. The question is, of course, complicated by the fact that the settlement, or compromise, of a lawsuit was involved in the agreement. It is submitted that the court should give the accountant instructions regarding this item.

The credit of $971.61 for refunds of misappropriations made by an employee prior to August 1, 1914, is not a proper one in this accounting.

The item "Expense in connection with picnic gum charged against sales department by factory, $1,410.16" is an internal bookkeeping entry, not involving any outlay. Inasmuch as the manufacturing cost of Doublemint has been determined by analysis of the factory records, the item in
744 question is not a valid charge against overhead in this accounting. The fact that the "Expense Account" on the general ledger is used as a clearing account is responsible for the item "Miscellaneous Sales" at Brooklyn credited in the first place to "Sales Account" and afterwards to "Factory Expense" by crediting that account and charging "Expense"—$831.13. Inasmuch as this charge arises through faulty bookkeeping only, it cannot be regarded as a proper charge in this accounting.

It will be observed that rental of the Chicago Factory Shipping Department is charged to "Expense Account" but these charges were reversed in the Adjustment Statement filed March 6, 1919.

Brooklyn Packing and Shipping Department Salaries, Boxes and Expense is charged to "Expense Account;" but in the Doublemint accounting these expenses were charged as part of the manufacturing cost. Expense Account was rectified in this respect in the Adjustment Statement filed March 6, 1919.

The items included under the caption "Miscellaneous Office Expense, Storage, Etc." were scrutinized; they are either proper charges or too trivial to take exception to.

It is improper to charge in the Doublemint accounting a full year's depreciation for 1914 on motor trucks and office furniture and fixtures. The charge of $6,982.20 should be reduced to 5/12 of $6,982.20 or $2,909.25. The method adopted by the Wm. Wrigley Jr. Company for the computation of depreciation has been discussed under the caption of "Manufacturing Cost" and the comments made there apply with equal force to depreciation items included in the overhead.

745 Inasmuch as no inventory of expense items was available as at August 1, 1914, it is suggested that it would be fairer if the closing inventory of $2,094.79 were eliminated.

In this discussion of the expense items, comments made in

one period apply to similar items in subsequent periods, and to avoid reiteration, they will not be repeated.

The charge of $42,058.75 in respect of expense for the year 1915 is made up as follows:

SUMMARY OF EXPENSE ACCOUNT

	Debit	Credit
1915, January 1, to December 31:		
Inventory as at January 1, 1915	$ 2,094.79	
Miscellaneous Adjustments of Sales Ledger Accounts	1,761.42	
Refunds from Transportation Companies, for items other than "Claims"; refunds on travelling advances; miscellaneous sales to employees; other miscellaneous items; but chiefly 6 cents a box on donations and on gum shipped on war tax rebate certificates charged to "Advertising Account and war tax rebate certificates" to cover freight on such items		26,208.48
Old balance of Wm. Scatchard (in charge of Philadelphia branch) written off by order of Wm. Wrigley Jr.	865.05	
Correcting errors in crediting "Expense Account"—Miscellaneous items—in 1915	60.58	
Geo. F. Desbien—Expenses (Geo. F. Desbien was the Far Eastern representative)	61.00	
Power, Light, Lamps and Labor for Chicago Shipping Department transferred from "Light and Power" and "Factory Pay-roll", etc.	438.43	
Loss on exchanging adding machine	166.09	
Marine and other insurance; repairs to vending machines on Platforms of elevated stations (no proportion of which is, strictly speaking, chargeable to Doublemint, but the amount is small and has been ignored); Office Supplies and miscellaneous purchases	6,080.82	
J. R. Offield—Retainer Fee	10,000.00	
J. R. Offield—Expenses	2,709.63	
Miscellaneous Brooklyn Factory Sales first credited to "Sales Account" and afterwards to "Factory Expense" by crediting that Account and charging "Expense"	2,228.55	
Expense in connection with Picnic Gum charged against Sales Department by Factory	354.43	
Miscellaneous Office Expense, Storage, etc.	20,267.53	
Miscellaneous Expense at Brooklyn	13,362.95	
Brooklyn Packing and Shipping Department Salaries and Boxes transferred to "Manufacturing Cost" in Doublemint accounting		12,829.95
Fares to Australia of factory employees, never charged to Australian Company subsequently	492.00	
Rent of Chicago Factory Shipping Department—not actually paid, the corresponding credit being to "Real Estate Income"	10,500.00	
Carried Forward	$ 71,443.18	39,038.43

746 SUMMARY OF EXPENSE ACCOUNT, Continued

	Debit	Credit
1915, January 1 to December 31, Continued: Brought Forward	$ 71,443.18	39,038.43
Rent of Chicago Factory Shipping Department excluded from Doublemint accounting, interest on Invested Capital being charged		10,500.00
Freight, etc., charged back to Creditors		3,724.43
Marine Insurance charged back		2,112.39
Freight Charges transferred to Factory Expense, Advertising, Advertising Matter and Other Accounts		5,696.89
Depreciation of Office Furniture and Fixtures	3,780.58	
Frank F. Pulver—Note	30,000.00	
Inventory as at December 31, 1915		2,092.87
	105,223.76	63,165.01
Charged as Overhead in the Doublemint Accounting		42,058.75
Total	$ 105,223.76	105,223.76

Note;
The Inventory as at January 1, 1915, was understated by $520.36 according to an analysis made.

746 Care will have to be taken to see that the charge of 6 cents a box on donations and on gum shipped on war tax rebate certificates are properly dealt with by the Wm. Wrigley Jr. Company under the caption "Advertising" in order to avoid duplication of charges on the one hand, and, on the other hand, to see that where overhead accounts have been relieved of expense, corresponding charges are made under the caption "Advertising".

The charge of $865.05, being an old balance carried against Wm. Scatchard written off, would not appear to be a proper charge in this accounting.

Under the caption "Manufacturing Cost" it was pointed out that charges for light and power had been made to other accounts and credited to "Light and Power Accounts", although it was not clear that Doublemint has received its proportion of these credits. Subject to this comment, the charges to "Expense Account" for Light, Power, Lamps and Sundries for the Chicago Factory Shipping Department are proper.

747 The Loss of $166.00 on exchanging and adding machine is hardly a valid charge in this accounting, because had the Wm. Wrigley Jr. Company made provision for depreciation prior to 1914, this apparent loss would not have occurred, or at any rate, it would have been less.

When Wrigley's charge for "Advertising" is checked, it will be necessary to ascertain that the freight on advertising matter credited to "Expense" has been properly handled.

In 1916, $26,529.99 was charged in the total overhead as "Expense"; this item is made up as follows:

SUMMARY OF EXPENSE ACCOUNT

	Debit	Credit
1916, January 1 to December 31:		
Inventory as at January 1, 1916	$ 2,092.98	
Gifts to Factory Employees—Bank Depositors	41.00	
Labor transferring gum from old boxes to new	259.38	
Labor installing Auto Call in Shipping Department	37.45	
Labor making Cartons	645.12	
Frank F. Pulver—Note	30,000.00	
Christmas Presents—Office Employees	1,515.09	
Duty on Chewing Gum shipped to London	612.40	
Miscellaneous adjustments of Sales Ledger Accounts	1,190.39	
Legal Fees in connection with the incorporation of the Canadian Company and in connection with Canadian Profits Tax, the amounts applicable to each not being stated separately on the bill	1,322.88	
Marine and Other Insurance; repairs to vending machines on platforms of Elevated Stations (no portion of which is, strictly speaking, chargeable to Doublemint, but the amount is small and has been ignored) Office Supplies and miscellaneous purchases	6,838.94	
Alterations to Main Office	2,470.84	
Rent of Chicago Factory Shipping Department—not actually paid, the corresponding credit being to Real Estate Income	12,630.72	
Rent of Chicago Factory Shipping Department excluded from Doublemint accounting, Interest on Invested Capital being charged		12,630.72
Miscellaneous Brooklyn Factory Sales first credited to "Sales account" and afterwards to "Factory Expense" by crediting that account and charging "Expense."	3,395.53	
Miscellaneous Office Expense, Storage, etc.	25,075.47	
Power, Light, Lamps and Labor for Chicago Shipping Department credited to "Light and Power" and to "Factory Pay-roll"	605.75	
J. R. Offield—Retainer	10,000.00	
J. R. Offield—Expenses	528.44	
Miscellaneous Expense at Brooklyn	22,837.44	
Carried Forward	$ 122,099.62	12,630.72

748 SUMMARY OF EXPENSE ACCOUNT, Continued

	Debit	Credit
1916, January 1, to December 31, Continued:		
Brought Forward	$ 122,099.62	12,630.72
Brooklyn Packing and Shipping Department Salaries, Boxes and Expense transferred to "Manufacturing Cost" for Doublemint Accounting		23,596.62
Freight, etc, transferred to Factory Expense and Other Accounts		3,806.79
Freight transferred to "Advertising" being an arbitrary charge to cover freight on "Advertising Matter", etc.		4,800.00
Refunds from Transportation Companies for items other than "Claims"; refunds on travelling advances; miscellaneous sales to employees; other miscellaneous items; but chiefly 6 cents a box on donations and on gum shipped on war tax rebate certificates, charged to "Advertising" and "War Tax Rebate Certificates" to cover freight on such items		50,644.70
Freight, etc., charged back to creditors		3,763.84
Paris Office Fixtures Written Off	678.42	
Depreciation of Chicago Office Furniture and Fixtures	4,316.43	
Inventory as at December 31, 1916		439.56
War Risk Insurance charged to the Australian Company in 1917 (credited to Surplus Account in 1917) but paid in 1916 and charged to "Expense"		882.25
	127,094.47	100,564.48
Charged as Overhead in the Doublemint Accounting		26,529.99
Total	$ 127,094.47	127,094.47

748 Inasmuch as the labor on Doublemint has been specifically determined and charged under the heading of "Manufacturing Cost", it would appear that the charge "Labor transferring gum from old boxes to new—$259.38" is not proper. On the other hand, the charge of $645.12 for making cartons would seem to be in order, being in the nature of an advertising charge.

The legal fees in connection with the incorporation of the Canadian Company are not chargeable in this accounting, but the legal services in connection with the negotiations for an adjustment of the Canadian Profits Tax (for the year 1915) are chargeable. The total bill is for $1,322.88, but the items are not specified separately.

The cost of the alterations of the main office, which was $2,470.84, should not be charged all in one year, but should be spread over the term of the lease.

749 The item "Paris Office Fixtures written off—$678.42", is not a valid charge, as that office is still in existence.

The "Expense Account" for 1916 was adjusted in the ad-

justment statement filed March 6, 1919, in respect of the item of $882.85 for war risk insurance paid in 1916 charged to the Australian Company in 1917 and credited to "Surplus Account".

In the period January 1 to December 31, 1917, $69,346.53 was charged to overhead in respect of "Expense", this amount being made up as follows:

SUMMARY OF EXPENSE ACCOUNT

	Debit	Credit
1917, January 1 to December 31:		
Inventory as at January 1, 1917	$ 439.56	
Bonus to Frank Hill—Head of Chicago Shipping Department	500.00	
Frank F. Pulver—Note	30,000.00	
Christmas Presents to Employees	1,460.00	
Marine and Other Insurance, repairs to vending machines on platforms of Elevated Stations (no portion of which is, strictly speaking, chargeable to Doublemint, but the amount is small and has been ignored) Office Supplies and Miscellaneous purchases	7,430.99	
Freight, etc., charged back to creditors		5,622.68
Miscellaneous Adjustments on Sales Ledger Accounts	1,693.19	
Landing Charges, Port Dues, etc., in connection with foreign business	5,325.47	
Excess Freight charged against Paris Office, being excess over normal due to War Time Conditions		8,170.00
Refunds from Transportation Companies, for items other than "Claims"; refunds on travelling advances; miscellaneous sales to employees; other miscellaneous items; and 6 cents a box on donations and on Gum shipped on War Tax Rebate Certificates charged to "Advertising" and "War Tax Rebate Certificates" to cover freight		13,475.70
Miscellaneous Office Expense, Storage, etc.	30,515.06	
J. R. Offield—Retainer	10,000.00	
J. R. Offield—Expenses	1,120.03	
Expense in connection with tax legislation, etc.	4,300.00	
Miscellaneous Expense at Brooklyn	25,918.94	
Brooklyn Packing and Shipping Department Salaries, Boxes and Expense transferred to "Manufacturing Cost" for Doublemint accounting		24,577.69
Rent of Chicago Factory Shipping Department—not actually paid, the corresponding credit being to Real Estate Income	13,890.00	
Rent of Chicago Factory Shipping Department excluded from Doublemint accounting, Interest on Invested Capital being charged		13,890.00
Carried Forward	$ 132,593.24	65,736.07

750 SUMMARY OF EXPENSE ACCOUNT, Continued

	Debit	Credit
1917, January 1, to December 31, Continued: Brought Forward	$ 132,593.24	65,736.07
Miscellaneous Brooklyn Factory Sales first credited to "Sales Account" and afterwards to "Factory Expense" by crediting that Account and charging "Expense"	5,493.32	
Power, Light, Lamps, Labor and Sundries for Chicago Shipping Department credited to "Light and Power", "Factory Expense" and "Factory Pay-roll"	901.51	
Freight, etc. transferred to Factory Expense and Other Accounts		2,248.48
Freight transferred to "Advertising" being an arbitrary charge to cover freight on Advertising Matter, etc.		4,200.00
Depreciation of Office Furniture and Fixtures	3,947.30	
Inventory as at December 31, 1917		1,404.29
	142,935.37	73,588.84
Charged as Overhead in the Doublemint Accounting		69,346.53
	$ 142,935.37	142,935.37

750 The item "Expense in connection with tax legislation, etc., $4,300.00" is described in accordance with statements made by officials of the Wm. Wrigley Jr. Company, as the vouchers do not, except in one case, give any indication of the nature of the services rendered in consideration of the payments.

All the other items in this period are either self-explanatory or their nature has previously been explained.

As with all other overhead items, the "Expense" for the period from January 1, to August 24, 1918, has been taken for the period from January 1, to August 31, 1918. The "Expense" for this period was $46,630.57 made up as follows:

751

SUMMARY OF EXPENSE ACCOUNT

	Debit	Credit
1918, January 1, to August 24, 1918, per General Ledger, January 1, to August 31:		
Special Commission or Bonus paid on 1917 Sales	$ 2,000.00	
Bonus to E. A. Ross, Office Employee	500.00	
Employees' Group Life Insurance	3,105.66	
Alterations to Main Office	635.63	
Miscellaneous Adjustments to Sales Ledger Accounts	1,573.48	
Refunds from Transportation Companies on items other than "Claims"; refunds on travelling advances; miscellaneous sales to employees; other miscellaneous items; and 6 cents a box on donations charged to "Advertising" to cover freight thereon		3,843.87
Marine and Other Insurance; repairs to vending machines on Elevated Station Platforms (no portion of which is, strictly speaking, chargeable against Doublemint, but the charges were negligible throughout the accounting period until August, 1918, when about $3,000.00 was charged); office supplies and Miscellaneous Purchases	11,796.78	
Freight and Sundry Items charged back against Creditors		3,747.65
Power, Light, Lamps, etc., for Chicago Shipping Department credited to "Light and Power", "Factory Expense" and "Factory Pay-roll"	576.19	
Rent of Chicago Factory Shipping Department—not actually paid the corresponding credit being to Real Estate Income	10,325.92	
Rent of Chicago Factory Shipping Department excluded from Doublemint Accounting, Interest on Invested Capital being charged		10,325.92
Miscellaneous Brooklyn Factory Sales first credited to "Sales Account." and afterwards to "Factory Expense" by crediting that account and charging "Expense."	3,135.54	
Watchman's services in Chicago Factory Shipping Department	648.89	
J. R. Offield—Retainer Fee	7,500.00	
J. R. Offield—Expenses	344.62	
Miscellaneous Expense at Brooklyn	20,195.79	
Brooklyn Packing and Shipping Department Salaries, Boxes and Expense transferred to "Manufacturing Cost" for Doublemint accounting		19,684.06
Miscellaneous Office Expense, Storage, etc.	25,786.50	
Freight transferred to "Advertising" being an arbitrary charge to cover freight on Advertising Matter shipped		800.00
Freight, etc., transferred to Factory Expense and other accounts		3,092.93
	88,125.00	41,494.43
Charged on Overhead in the Doublemint Accounting		46,630.57
	$ 88,125.00	88,125.00

752 The item of $3,105.66 for employees group life insurance should be spread over the whole year and not charged in a lump sum against this period.

The item "Alterations to Main office—$635.63" should, strictly, be spread over the term of the lease.

Before showing how the expense overhead for the period from August 25 to October 4, 1918 was determined, the summarized analysis of the "Expense Account" for the months of September and October, 1918 are submitted;

SUMMARY OF EXPENSE ACCOUNT

	Debit	Credit
1918, Month of September:		
Chicago Factory Shipping Department Rent—Not actually paid, the corresponding credit being to Real Estate Income	$ 984.59	
Chicago Shipping Department Light and Power and Sundries	75.39	
Services of Watchman for Chicago Factory Shipping Department	76.52	
Miscellaneous Brooklyn Factory Sales first credited to "Sales Account" and afterwards to "Factory Expense" by crediting that Account and charging "Expense"	159.35	
Freight, etc., transferred to Factory Expense and other accounts		79.44
Miscellaneous Expense at Brooklyn	969.34	
Miscellaneous Adjustments of Sales Ledger Accounts	87.28	
Refunds from Transportation Companies for items other than "Claims" refunds on travelling advances; miscellaneous sales to employees; other miscellaneous items; and 6 cents a box on donations charged to "Advertising" to cover freight thereon		369.89
Marine and other insurance; repairs to vending machines on Elevated Station platforms (no portion of which is, strictly speaking, chargeable to Doublemint, but the amount was small); office supplies and miscellaneous purchases	1,479.51	
Freight and Sundry Items charged back against creditors		343.45
Miscellaneous Office Expense, Storage, etc.	3,226.29	
	7,058.27	792.78
Expense Account Balance for September		6,265.49
	$ 7,058.27	7,058.27

753 SUMMARY OF EXPENSE ACCOUNT

	Debit	Credit
1918, Month of October:		
Chicago Factory Shipping Department Rent—Not actually paid, the corresponding credit being to Real Estate Income	$ 984.59	
Chicago Shipping Department Light and Power and Sundries	82.89	
Services of Watchman for Chicago Factory Shipping Department	87.89	
Miscellaneous Brooklyn Factory Sales first credited to "Sales Account" and afterwards to "Factory Expense" by crediting that Account and charging "Expense"	80.10	
Freight, etc., transferred to Factory Expense and other Accounts		1,206.51
Freight charged to "Advertising" covering freight on "Advertising Matter"		200.00
Miscellaneous Expense at Brooklyn	2,818.25	
Additional Franchise Tax paid to State of Illinois, covering the period 1911-1918	9,836.00	
Miscellaneous Adjustments on Sales Ledger Accounts	412.78	
Refunds from Transportation Companies for items other than "Claims"; refunds on travelling advances; miscellaneous sales to employees; other miscellaneous items; and 6 cents a box on donations charged to "Advertising" to cover freight thereon		444.81
Freight and Sundry Items charged back to creditors		234.24
Miscellaneous Office Expense, Storage, etc.	3,042.38	
Marine and other Insurance; repairs to vending machines on Elevated Station Platforms (no portion of which is, strictly speaking, chargeable to Doublemint, but the amount was small); Office Supplies and Miscellaneous Purchases	1,566.04	
	18,910.92	2,085.56
Expense Account Balance for October		16,825.36
	$ 18,910.92	18,910.92

753 The only item calling for comment is one in October; Additional Franchise Tax paid to State of Illinois, covering the period 1911-1918—$9,836.00". It is improper to charge this item, which represents an additional assessment for the period named, all in one month. The additional tax for each year should be ascertained, and the present accounting charged with the proper amounts.

The amount charged in the total overhead in respect of "Expense" for the period from August 25, to October 4, 1918, is made up as follows:

754 Expense

Expense Account Balance for month of September	$	6,265.49
Expense Account Balance for month of October	16,825.36	
Less Additional Illinois Franchise Tax	9,836.00	
	6,989.36	
4/31 of $6,989.36 is		901.85
		7,167.34
Deduct:		
Brooklyn Packing and Shipping Department Salaries Boxes and Expense	3,783.62	
Rent of Chicago Factory Shipping Department one month only	984.59	4,768.21
Charged in Total Overhead		$ 2,399.13

754 The amount charged in the total overhead in respect of "Expense" for the period from October 5, to November 12, 1918 is made up as follows:

Expense Account Balance for month of October	$ 16,825.36	
27/21 of $16,825.36 is		14,654.34
Expense Account Balance for month of November	16,838.87	
12/30 of $16,838.87 is		6,735.55
Charged in Total Overhead		$ 21,389.89

It is desired to point out some inconsistencies in these computations. In the first place, in arriving at the "Expense" for the period from August 25, to October 4, 1918, the additional Illinois Franchise Tax amounting to $9,836.00 is excluded from consideration, but for the period from October 5, to November 12, 1918 it is included.

Then in the first period, the total Brooklyn Packing and Shipping Department Salaries, Boxes and Expense is deducted, whereas the amount for October should have been apportioned, 4/31 to the first period, and 27/31 to the second period.

755 Only one month's rent of the Chicago Factory Shipping Department was deducted in the first period, and nothing in the second. The deductions made in this regard should have been as follows: first period, month of September and 4/31 of the month of October; and second period, 27/31 of the month of October and 12/30 of the month of November.

To complete the comments on "Expense", the summarized analysis of the "Expense Account" for November, 1918, is now submitted:

SUMMARY OF EXPENSE ACCOUNT

	Debit	Credit
1918, Month of November:		
Chicago Factory Shipping Department Rent—not actually paid, the corresponding credit being to Real Estate Income	$ 984.59	
Chicago Factory Shipping Department Power and Light	116.16	
Miscellaneous Brooklyn Factory Sales, first credited to "Sales Account" and afterwards to "Factory Expense" by crediting that account and charging "Expense"	235.80	
Freight, etc., transferred to Factory Expense and other accounts		864.44
Freight charged to "Advertising" covering freight and Advertising Matter		100.00
Parkinson and Lane	3,929.80	
Parkinson and Lane, Easterman Bros. Invoice, October 30, 1918	103.15	
Prock and Persine—Plans for new Chicago Factory	5,020.31	
Miscellaneous Expense at Brooklyn	4,336.15	
Miscellaneous Adjustments of Sales Ledger Accounts	44.26	
Refunds from Transportation Companies for Items other than "Claims": refunds on travelling advances; miscellaneous sales to employees; and other miscellaneous items; and 6 cents a box on donations charged to "Advertising" to cover freight thereon		710.03
Marine and Other Insurance; repairs to vending machines on Elevated Station Platforms (no portion of which is, strictly speaking, chargeable to Doublemint but the amount is small); Office Supplies and miscellaneous Purchases	1,553.09	
Freight and Sundry Items charged back to Creditors		347.68
Miscellaneous Office Expense, Storage, etc.	2,537.71	
	18,861.02	2,022.15
Expense Account Balance for November		16,838.87
	$ 18,861.02	18,861.02

756 The items "Parkinson and Lane—$3,929.80" and "Parkinson and Lane, Easterman Bros. Invoice, October 30, 1918—$103.15" are not proper charges, because they represent payments for legal services rendered in connection with the Doublemint suit.

The item of $5,020.31 paid to Prock and Persine for plans for an addition to the Chicago Factory is inadmissible in the present accounting, notwithstanding the fact that the plans were never used.

The Brooklyn Packing and Shipping Department Salaries,

Boxes and Expense should be excluded from the above account, because the Wm. Wrigley Jr. Company has purported to charge Doublemint with the correct charge in this regard under the caption "Manufacturing Cost".

Auditing Department Salaries. This item represents the salaries paid to the accounting, order-entering, stenographic, billing, traffic and other departments. The charges made in the total overhead are as follows:

Period		Amount
July 28, to December 31, 1914		$ 33,102.80
January 1, to December 31, 1915		97,180.40
January 1, to December 31, 1916		119,756.59
January 1, to December 31, 1917		147,317.60
January 1, to August 24, 1918—Per General Ledger,		
January 1, to August 31,		
August 25, to October 4, 1918		113,204.46
Per General Ledger:		
September	$ 12,185.16	
October—4/31 of $12,098.16	1,561.05	13,746.21
October 5, to November 12, 1918		
Per General Ledger		
October—27/31 of $12,098.16	10,537.11	
November—12/30 of $17,859.47	7,143.79	17,680.90

In November, 1918, the employees were given an extra week's salary on condition that a fixed percentage should be donated to the Red Cross and other charities.

757 Agencies Under the heading "Agencies" the Wm. Wrigley Jr., Company charges the salaries of those in charge of the office at Brooklyn, Boston and Philadelphia (and to the date of the incorporation of the Canadian Company, the Toronto office was included under "Agencies"); miscellaneous office salaries and expenses for those offices; freight on gum shipped from those places; and generally any expenses originating at those points. In addition, salaries and expenses of certain foreign representatives, are also charged to this account. The charges to overhead in respect of "Agencies" are now shown, each period being commented upon separately:

July 28 to December 31, 1914		
The balance of the "Agencies Account" for the period from August 1, to December 31, 1914, was		$ 58,681.41
Deduct:		
Advertising in Canada charged in the Doublemint accounting under the caption "Advertising" (when the Advertising Accounts are checked, it will have to be seen that this item has been properly accounted for)	$ 2,213.48	
Toronto—Factory Office and Packing and Shipping Department Salaries and Expenses charged in the Doublemint Accounting under "Manufacturing Cost"	3,915.64	
Salary of Administrative Executive charged under "Manufacturing Cost"	2,000.00	
Brooklyn—Factory Office Salaries Supplies and Sundry Expense charged in the Doublemint Accounting under "Manufacturing Cost"	3,276.51	
Salary of Administrative Executive charged under "Manufacturing Cost"	3,666.64	15,072.27
Charged as Overhead		$ 43,609.14

Inasmuch as the Wm. Wrigley Jr., Company has elected to treat the salaries of the administrative executives at Brooklyn and Toronto, and the office salaries, etc., as part of the manufacturing cost, then such items should be eliminated from overhead for the month of August, inasmuch
758 as the manufacture of Doublemint was not started at Brooklyn and Toronto until September, 1914.

At Brooklyn, in this period, there is included in this account, items aggregating $2,246.08, which represent expenses incurred exclusively in foreign trade.

The salaries and expenses of "Detail Men" working at the agencies were charged to "Agencies" until December, 1914. It will be necessary to see that none of these salaries and expenses were included in the Doublemint accounting under the heading of "Advertising" when the advertising accounts are checked.

In August, Toronto paid an item of $1,045.51 being commission on July sales. Strictly speaking this charge is inadmissible, but it is not practicable to go through all the records to segregate expenses not strictly falling within the period, and therefore, except when the amounts involved were large, it has been assumed that such items will, roughly speaking be offset by similar items at the end of the period not entered on the records until a subsequent date:

January 1, to December 31, 1915:		
Balance of "Agencies Account" per General Ledger		$ 138,554.53
Deduct Items charged under caption "Manufacturing Cost" in the Doublemint Accounting:		
Brooklyn—Factory Office Salaries, Supplies and Sundry Expenses	$ 12,493.15	
Salary of Administrative Executive	10,999.92	
Toronto—Factory Office and Packing and Shipping Department Salaries and Expenses	13,078.85	
Salary of Administrative Executive	6,000.00	42,571.92
Charged as Overhead		$ 95,982.61

759 During the year 1915 expenses paid at Brooklyn solely in connection with foreign business, amounted to $14,341.20.

"Agencies Account" during 1915 was charged with $7,884.15, being the salary and expense of Geo. F. Desbien, the Far Eastern representative of the Company:

January 1, to December 31, 1916:		
Balance of "Agencies Account" per General Ledger		$ 192,864.10
Deduct Items charged under the caption "Manufacturing Cost" in the Doublemint Accounting:		
Brooklyn—Factory Office Salaries, Supplies and Sundry Expense	$ 19,483.69	
Salary of Administrative Executive	13,216.62	32,700.31
Charged as Overhead		$ 160,163.79

Expenses paid at Brooklyn during 1916 solely in connection with foreign business amounted to $84,828.10.

The salary $4,999.92 of Geo. F. Desbien, the Far Eastern representative was charged to "Agencies Account" during 1916, as were the salary and expenses, aggregating $13,300.00, of N. Grumbach, the South American representative:

January 1, to December 31, 1917		
Balance of "Agencies Account" per General Ledger		$ 171,069.33
Deduct Items charged under the caption "Manufacturing Cost" in the Doublemint Accounting:		
Brooklyn—Factory Office Salaries, Supplies and Sundry Expense	$ 24,775.28	
Salary of Administrative Executive	15,293.00	40,068.28
Charged as Overhead		$ 131,001.05

760 The expenses paid at Brooklyn during 1917 solely applicable to foreign business were $48,485.37.

Geo. F. Desbien's salary and expenses charged to "Agencies" in 1917 amounted to $3,857.54, while the salary of N. Grumbach, also charged to this account, was $12,000.00.

On December 7, 1917, the Philadelphia office purchased an adding machine for $252.20, the cost of which was charged to "Agencies". This amount ought to have been capitalized.

During 1917, the Boston office donated $1,000.00 to the Red Cross, this amount being charged to "Agencies".

In 1917, the Boston office exchanged two Ford cars, the additional cost being $368.35, which was charged to "Agencies". Inasmuch as both cars were purchased during the accounting period the charge is proper:

January 1, to August 24, 1918		
Balance of Agencies Account for the period from January 1, to August 31, 1918		$ 88,907.79
Deduct Items charged under "Manufacturing Cost in the Doublemint accounting:		
Brooklyn—Factory Office Salaries, Supplies and Sundry Expense	$ 18,171.27	
Executive	11,333.36	29,504.63
Charged as Overhead		$ 59,403.16

The foreign business expense at Brooklyn during this period was $2,617.82 only.

Included in Agencies' expense for this period is $250.00 paid for valuation of real estate, the site of a proposed new factory. This expense was caused by circumstances which will be explained under the caption "Brooklyn Moving Expense".

761 On July 9, 1918, the Philadelphia office donated $250.00 to the War Welfare Council of Philadelphia, the amount being charged to "Agencies".

The salary paid to N. Grumbach during this period was $4,000.00, charged to "Agencies":

August 25, to October 4, 1918:		
Balance of Agencies Account, Month of September		$ 9,959.18
4/31 of Balance of Agencies Account, Month of October, this is, 4/31 of $10,266.44		1,324.70
		$ 11,283.88
Deduct Items charged under "Manufacturing Cost" in Doublemint Accounting:		
Brooklyn—Factory Office Salaries, Supplies and Sundry Expenses, September and October	$ 4,621.96	
Salary of Administrative Executive, September and October	2,833.34	7,455.30
Charged as Overhead		3,828.58
October 5, to November 12, 1918:		
27/31 of Balance of Agencies Account Month of October, that is 27/31 of $10,266.44		8,941.74
12/30 of Balance of Agencies Account, Month of November, that is 12/30 of $13,829.91		5,531.96
Charged as Overhead		$ 14,473.70

The items transferred to "Manufacturing Cost" for October should have been apportioned between the two periods, 4/31 to the first and 27/31 to the second.

Inasmuch as the Wm. Wrigley Jr., Company has elected to charge Brooklyn Factory Office Salaries, Supplies and Sundry Expense and the Salary of the Administrative Executive as part of the "Manufacturing Cost", these items should be excluded from balance for the month of November.

On July 9, 1918, the Philadelphia office donated $250.00 to the War Welfare Council of Philadelphia; a like amount was donated on October 2, 1918. Attention is drawn to these 762 donations because the Wm. Wrigley, Jr., Company, in the first instance, eliminated such donations from the Doublemint accounting, but filed a claim for Doublemint's proportion thereof when the adjustment statement was filed, March 6, 1919.

Documentary Revenue Stamps. The charges made in the total overhead in the Doublemint accounting in respect of Documentary Revenue Stamps are as follows:

Period	Amount
July 28 to December 31, 1914	$ 300.00
January 1, to December 31, 1915	1,867.11
January 1, to December 31, 1916	1,673.78

Bad Debts. The nature of this item is clear; the charges made in the total overhead in the Doublemint accounting in respect thereof are as follows:

Period			Amount
July 28, to December 31, 1914			$ 12,590.26
January 1, to December 31, 1915			10,057.33
January 1, to December 31, 1916			14,495.78
January 1, to December 31, 1917			14,672.19
January 1, to August 24, 1918 — per General Ledger, January 1, to August 31		Credit	2,413.16
August 25, to October 4, 1918:			
Per General Ledger:			
September		$ 40.50	
Deduct for October, 4/31 of Credit of $694.67	Credit	89.63	49.13
October 5, to November 12, 1918:			
Per General Ledger:			
October—27/31 of Credit of $694.67	Credit	605.04	
November—12/30 of Charge of $1,916.68	Charge	766.67	
		Charge	161.63

Included in the charge of $12,590.26, for the period from July 28, to December 31, 1914, is $11,986.81 written off as

losses on the accounts of concerns from which chicle was
763 bought at the agency at Belize, British Honduras. The Wm. Wrigley Jr. Company makes advances to the Chicle gatherers for supplies, etc., such advances being deducted from the purchase price of the chicle. If the gatherer does not have a successful season, the value of his chicle will not amount to the sums advanced to him; usually such a balance is carried forward to the next season, but occasionally these balances are total losses. The question arises: Should such losses be charged off in the period in which they were determined or should they be thrown back and added to the cost of the chicle obtained during the seasons in which the advances were made, the present accounting consequently only being affected by the increased cost of chicle gathered in those seasons used during the accounting period? If the latter proposition is accepted, then of course the Wm. Wrigley Jr. Company will be entitled to determine the losses accrued at the end of the accounting period and add to the cost of the chicle used during the period a pro rata proportion of such losses. The advances aggregating $11,986.81 written off at the end of 1914, were made in the seasons now named:

Season 1913-14	$ 276.20
Season 1912-13	595.83
Season 1911-12	11,114.78
Total	$11,986.81

In 1917, an item of $7,992.00 was charged off representing a loss on the account of N. Grumbach, the South American representative. This loss was partly offset by the return, in April, 1918, of goods of the value of $2,277.07.

The case of bad debts will illustrate the difficulty of determining overhead according to entries made on the books
764 in certain defined periods. In the period from July 28, to December 31, 1914, there would be but a very small proportion of the bad debts charged off attributable to sales of Doublemint, while there will undoubtedly be bad debts arising out of the sales of Doublemint during the accounting period charged off after the end of that period.

Insurance There does not seem to have been any well defined reason for the "Insurance Account" when it was carried, for only very occasional items were posted thereto. The charges made in respect thereof in the total overhead in the Doublemint accounting are as follows:

Period	Amount
July 28, to December 31, 1914	$ 3.01
January 1, to December 31, 1915	200.47

Depreciation of Buildings. For the period from July 28, to December 31, 1914, to Wm. Wrigley Jr. Company included the depreciation of the Chicago Factory Buildings with the total overhead. This is incorrect, as the charge should have been made part of the "Manufacturing Cost", to the remarks under which caption reference should be made for the criticism of the method adopted by the Wm. Wrigley Jr. Company in charging depreciation. The amount charged in the total overhead for the period from July 28, to December 31, 1914, is $18,564.90 being 5/12 of the depreciation on buildings provided for on the Company's books for the year 1914. This depreciation charge, however, is incorrect inasmuch as it includes depreciation on the Van Buren Street property which was not used as a factory in 1914, and was held more or less as an investment. It is suggested that this depreciation charge be considered along with those made under "Manufacturing Cost" both as to rates used and the method
765 to be adopted of providing for depreciation.

Maintenance of Toronto Building. The total overhead for 1915, is credited with $2,247.51 being the excess over rents received, and rentals charged under "Agencies" over the cost of maintaining the buildings, which was not occupied until 1915.

Office Stationery, Circulars, etc. The charges made in the total overhead for office stationery, circulars, etc., were obtained from an analysis of the "Advertising Matter Account" and cannot be verified until the advertising accounts are checked. The amounts are as follows:

Period	Amount
July 28, to December 31, 1914	$ 10,054.10
January 1, to December 31, 1915	29,897.00
January 1, to December 31, 1916	90,709.61
January 1, to December 31, 1917	56,414.62
January 1, to August 24, 1918	8,413.84

Advertising—Miscellaneous. The charges made in the total overhead in respect of this item cannot be verified until the advertising accounts are checked, as they do not originate in any of the accounts in the "overhead" group. The amounts are as follows:

Period	Amount
July 28, to December 31, 1914	$ 305.78
January 1, to December 31, 1915	1,119.92
January 1, to December 31, 1916	1,105.34
January 1, to December 31, 1917	819.00
January 1, to August 24, 1918	1,078.70

Paris Advertising Matter. Under this caption $679.60 was charged in the total overhead for the period from July 28, to December 31, 1914. This item is not a valid charge as no Doublemint was sold in France in this period.

766 Accounts Closed Out. This account is another bad debts account but it is not generally used for closing out losses on customers' accounts. The charges made in the total overhead are as follows:

Period			Amount
July 28, to December 31, 1914		Credit	$ 110.60
January 1, to December 31, 1915		Charge	38,215.28
January 1, to December 31, 1916		Charge	30,527.08
January 1, to December 31, 1917		Credit	1,885.48
January 1, to August 24, 1918—Per General Ledger—			
January 1, to August 31		Credit	890.35
August 25 to October 4, 1918:			
Per General Ledger:			
Month of September	Credit $ 57.18		
Month of October—Credit 4/31 of $695.04	Credit 89.68		
		Credit	146.86
October 5, to November 12, 1918:			
Per General Ledger:			
Month of October—Credit 27/31 of $695.04	Credit 605.36		
Month of November—Charge 12/30 of $13,035.95	Credit 5,214.38		
		Charge	4,609.02

In 1915, $38,657.78 and in 1916, $573.81 were charged off in respect of "cotton losses." During December, 1914, and January, 1915, the Wm. Wrigley Jr., Company took cotton at ten cents a pound in payment of accounts. Naturally the area within which cotton was so taken in payment of accounts was restricted. The cotton was sold at a loss, the amounts being given. If it had been held longer there would have been a large profit. As previously stated, the area within which the losses were sustained was restricted. Were the sales of Doublemint in this area comparatively as heavy as they were throughout the United States? And it is possible that a portion of these "cotton losses" are solely applicable to sales made prior to August 1, 1914, under the rule that

payments are to be applied, in the absence of specific instructions, against the oldest items.

767 In 1916, $29,659.36 was charged off as a loss on the account of the Wrigley Company, Ltd., Japan. Officers of the Company have explained that the Japanese Company was insolvent, and this loss had to be charged off in consequence thereof. This loss may perhaps be regarded as part of the cost of developing the Japanese business. It is a moot question what proportion of this loss should be borne by Doublemint, and figures of the sales of Doublemint to the Japanese company as compared with other sales should be produced before any decision is made.

In November, 1918, "Mess Supplies at Belize—$13,284.58" was charged off, and it would seem that this overlaps the charge made in the Doublemint accounting, being item No. 34 of the Adjustment Statement filed March 6, 1919; that item reading "Loss by fire at Belize, August 17, 1918, $11,202.57 x 15.1778% — $1,700.30".

Personal Property Taxes. The charges made in the total overhead in respect of personal property taxes are as follows:

Period	Amount
July 28, to December 31, 1914	$.....
January 1, to December 31, 1915	4,866.40
January 1, to December 31, 1916	6,414.84
January 1, to December 31, 1917	7,135.56
January 1, to August 24, 1918	5,727.44

The taxes are charged in the periods in which they were paid. Inasmuch as taxes in Chicago are paid in the year after the one for which they are assessed, and inasmuch as taxes should be apportioned over the year to which they are applicable, the charges in the total overhead in the Doublemint accounting should be as follows:

767½ Period	Amount
July 28, to December 31, 1914, 5/12 of $2,884.07	$ 1,618.36
January 1, to December 31, 1915	6,031.33
January 1, to December 31, 1916	6,881.31
January 1, to December 31, 1917	7,175.60
January 1, to August 24, 1918, 2/3 of $5,460.85	3,640.56
August 25, to October 4, 1918, 1/12 plus 4/31 of 1.12 of $5,460.85	513.78
October 5, to November 12, 1918, 27/31 plus 12/30 of 1/12 of $5,460.85	578.39

767½ Corporation Taxes. These taxes are capital stock taxes in the State of West Virginia, with the exception that in 1918 the New York State Franchise tax is included. The charges made in the total overhead are as follows:

Period	Amount
July 28, to December 31, 1914	.....
January 1, to December 31, 1915	$1,550.00
January 1, to December 31, 1916	1,550.00
January 1, to December 31, 1917	3,462.50
January 1, to August 24, 1918	10,000.31

The amount of the tax for 1917, is in error as it includes $787.50 tax paid when the capital stock was increased.

These taxes should not be charged in the period in which they are paid, but should be spread over the whole year. On this principal the charges would be as follows:

Period	Amount
July 28, to December 31, 1914, 5/12 of $935.00	$ 389.58
January 1, to December 31, 1915	1,550.00
January 1, to December 31, 1916	1,550.00
January 1, to December 31, 1917	2,675.00
January 1, to August 24, 1918, 2/3/ of $10,000.31	6,666.87
August 25, to October 4, 1918, 1/12 plus 4/31 of 1/12 of $10,000.31	940.89
October 5, to November 12, 1918, 27/31 plus 12/30 of 1/12 of $10,000.31	1,059.17

768 Canada Business Profits War Tax. In 1916, the Wm. Wrigley Jr., Company credited the Canadian Company with $12,000.00, to cover war profits tax on Canadian business for 1915, before the incorporation of the Canadian Company. Negotiations as to the amount to be paid are still pending. This $12,000.00 has been charged in the total overhead for 1916, although the item refers to 1915 business, and, further, the amount has not been settled.

Australian Organization Expense. In 1916, when the Australian Company was formed two qualifying shares of $5.00 each were alloted to Australian directors. This $10.00 has been charged in the total overhead, although it has no relating whatever with the Doublemint accounting.

Trade Discounts. Trade Discounts have been charged by the Wm. Wrigley Jr., Company in the Doublemint accounting partly under the heading of "Trade Discounts" and partly under the caption "Overhead." The charges made in the total overhead are as follows:

Period		Amount
January 1, to December 31, 1917 (for the period from October to December only such items prior to that date being posted in 1917, to Commission and prior to 1917, to Advertising)		$ 39,590.58
January 1, to August 24, 1918—Per General Ledger, January 1, to August 31		109,786.97
August 25, to October 4, 1918:		
Per General Ledger:		
Month of October—4/31 of $11,927.31 under the caption "Trade Discounts" and should be eliminated)		1,539.01
October 5, to November 12, 1918:		
Per General Ledger:		
Month of October—27/31 of $11,[illegible]	$ 10,388.30	
Month of November—12/30 of $17,050.83	6,820.33	17,208.63

769 With the exception noted the above charges are proper. They represent, as regards their nature, advertising allowances made to very large customers, and were based on sales.

Capital Stock Taxes. This item covers Federal Capital Stock Taxes. The charges made in the total overhead are as follows:

Period	Amount
January 1, to December 31, 1917	$13,495.25
January 1, to August 24, 1918	11,591.50

The charge for the period from January 1, to August 24, 1918, is made up as follows:

Additional Federal Capital Stock Tax to June 30, 1918	$ 1,755.50
Additional Franchise Tax, Illinois State 1911-1918	9,836.00
Total	$11,591.50

Inasmuch as the latter item was dealt with under the heading of "Expense" (where it has been charged, in part) it is proposed to exclude it from consideration here, and deal solely with the Federal Capital Stock Tax. This tax runs from July 1, to June 30, and taking this into consideration, the charge in the total overhead should be as follows:

Period	Amount
January 1, to December 31, 1917	$10,166.75
January 1, to August 24, 1918	6,411.91
August 25, to October 4, 1918	749.63
October 5, to November 12, 1918	843.87

Brooklyn Moving Expense. On June 18, 1918, Naval Order N;3255 was issued commandeering the premises occupied by the Wm. Wrigley Jr., Company in the Bush Terminal at Brooklyn. On September 9, 1918, the order was can-
770 celled. In the meantime the Wm. Wrigley Jr., Company had secured a site for a new factory and had commenced building operations. The new factory was occupied in January, 1919. In August, 1918, an account was opened with the title "U. S. Navy Department" to which items were charged representing expenditures in connection with the preparation for the transferring of the factory. It was a mixed account. Some of the charges represented capital expenditure and others pure losses. The only feasible method of separating the losses from the capital expenditures was to value the new factory and its equipment. The Wm. Wrigley Jr., Company claims that part of the purchase price of the new factory represented a pure loss inasmuch as the Company was in the position of a forced purchaser under favorable wartime conditions, and with very little time in which to make a choice. But when the Doublemint accounting was prepared, the Wm. Wrigley Jr., Company had not attempted to distinguish the capital expenditures from the losses in the "U. S. Navy Department Account." So in the Doublemint accounting all expenditures up to the end of the periods affected were included in total overhead, a procedure which had little or no justification. The charges so made were as follows:

Period		Amount
January 1, to August 24, 1918, per General Ledger January 1, to August 31, 1918		$ 5,705.70
August 25, to October 4, 1918:		
Per General Ledger:		
September	$ 25,701.88	
October 4/31 of $55,744.75	7,192.87	32,894.75
October 5, to November 12, 1918:		
Per General Ledger:		
October 27/31 of $55,744.75	48,551.88	
November 12/30 of $63,046.22	25,218.49	73,770.37

771 The error in these charges is apparent when it is stated that the total charge made to Profit and Loss on the general ledger in respect of loss due to the Naval Commandeer Order was only $84,489.47, the balance being considered as an asset. If any of this expense is chargeable in the Doublemint accounting the reason is obviously that the loss was due to the Naval Order and to the fact that that

order was issued before the injunction against the Wm. Wrigley Jr., Company in the case of Wrigley vs. Larson was issued. If that reason is valid in the present accounting, then all loss traceable to that cause, whether determined in 1918 or 1919 should be charged as overhead in the period from January 1, to August 24, 1919, as the Naval Order was issued in June 8, 1918. The accountants would have to be instructed by the Court as to the principles to be followed in determining the loss, and a reliable appraisal report on the values of the new factory would have to be secured. And the fact that the Wm. Wrigley Jr., Company has a claim against the U. S. Government because of the loss arising from the Naval Order would have to be taken into consideration.

Taxes—Essential Oil. In the period from January 1, to August 24, 1918, a tax of $323.95 was paid on essential oils; this amount is properly included in overhead.

Depreciation of Office Furniture and Fixtures. Inasmuch as Depreciation an office furniture and fixtures is not charged to "Expense Account" until the end of the year, the Wm. Wrigley Jr., Company charged $2,455.36 in the period from January 1, to August 24, 1918, and $346.52 in that from August 25, to October 4, 1918, in this respect under the caption "Depreciaion of Office Furniture and Fixtures."
772 The amounts are correct computed on the basis of 10% per annum on the diminishing value—the method and rate adopted in previous years by the Company. No charge was however, made for the period from October 5, to November 12, 1918.

War Tax on Sales. This item covers a Federal tax paid on the form of a percentage on sales. The charges made in the total overhead are as follows:

Period		Amount
January 1, to December 31, 1917		$ 66,166.09
January 1, to August 24, 1918—Per General Ledger January 1, to August 31		220,511.79
August 25, to October 4, 1918:		
Per General Ledger:		
Month of September	$ 20,145.77	
Month of October—4/31 of $25,315.41	3,266.50	23,412.27
October 5, to November 12, 1918:		
Per General Ledger:		
Month of October—27/31 of $25,315.41	22,048.91	
Month of November—12/30 of $21,736.56	8,694.62	30,743.53

It would have been more accurate if the actual tax for the broken periods in 1918 had been worked out on the total sales for those periods.

Detail Men. Until August 24, 1918, the salaries and expenses of the "Detail Men" (the field force placing advertising material, helping jobbers' salesmen etc.) were included as part of the "Advertising" in the Doublemint accounting. After that time they were charged in the total overhead, the amounts being as follows:

Period		Amount
August 25, to October 4, 1918:		
Per General Ledger:		
Month of September	$ 2,675.38	
Month of October—4/31 of $2,744.32	354.11	3,029.49
October 5, to November 12, 1918:		
Per General Ledger:		
Month of October—27/31 of $2,744.32	2,390.21	
Month of November—12/30 of $3,245.45	1,298.18	3,688.39

773 No fault can be found with the inclusion of these items in the total overhead, but when the advertising accounts are checked it will have to be seen that there is no duplication.

Illinois Manufacturers' Association. In the total overhead for the period from August 25, to October 4, 1918, a charge of $25.00 appears under this caption. The charge seems to be a mistake as it must have been posted to one of the other accounts on the books.

Reserve for Taxes. In the total overhead for the period from August 25, to October 4, 1918, a credit of $41.80 appears under this caption. This credit is a mistake, the item having been included under a misapprehension as to the nature of the account.

Export Rebates. This item covers drawback of duty on chicle and sugar entering into the manufacture of chewing gum exported. The following credits appear in the total overhead:

Period		Amount
July 28, to December 31, 1914	Credit	$1,039.03
January 1, to December 31, 1915	Credit	8,884.69
January 1, to December 31, 1916	Credit	1,800.77
January 1, to December 31, 1917	Credit	6,484.75

Profit on Claims. This account covers the profit on railroad and other claims made by billing the transportation

companies with claims in excess of the amounts allowed to customers. The credits in the "total overhead" in this respect are as follows:

774 Period			Amount
July 28, to December 31, 1914		Credit	$ 1,604.18
January 1, to December 31, 1915		Credit	4,918.65
January 1, to December 31, 1916		Credit	7,057.94
January 1, to December 31, 1917		Credit	14,392.58
January 1, to August 24, 1918—Per General Ledger—January 1, to August 31		Credit	12,786.24
August 25, to October 4, 1918:			
Per General Ledger:			
Month of September	$ 1,227.28		
Month of October—4/31 of $1,641.36	211.79		
		Credit	1,439.07
October 5 to November 12, 1918:			
Per General Ledger:			
Month of October—27/31 of $1,641.36	1,429.57		
Month of November—12/30 of $1,136.28	454.51		
		Credit	1,884.08

Interest on Bank Balances. The interest for the period from July 28, to December 31, 1914, was considered under the heading "Interest on Notes Payable." For the subsequent periods the interest is included under the caption "Interest on Bank Balances." During the period from January 1, 1915, to August 25, 1918, the Wm. Wrigley Jr., Company purported to take into consideration only such interest as was received from assets included under the Company's definition of Invested Capital, other interest being excluded. The credits to the total overhead during this period are as follows:

Period		Amount
January 1, to December 31, 1915	Credit	$ 7,501.79
January 1, to December 31, 1916	Credit	11,652.28
January 1, to December 31, 1917	Credit	14,404.02
January 1, to August 24, 1918	Credit	17,866.29

775 During the period from August 25, to November 12, 1918, this distinction was lost sight of and the Wm. Wrigley Jr., Company credited in the total overhead all interest received, no matter what the source. For this period the credits were determined as follows:

Period		Amount
August 25, to October 4, 1918:		
Per General Ledger:		
Month of September	$ 4,341.45	
Month of October 4/31 of $3,670.45	473.60	
	Credit	$ 4,815.05
October 5, to November 12, 1918:		
Per General Ledger:		
Month of October—27/31 of $3,670.45	$ 3,196.85	
Month of November—12/30 of $2,807.58	1,123.03	
	Credit	$ 4,319.88

$

An analysis made of the "Interest Account" does not entirely support the figures given by the Wm. Wrigley Jr. Company. The correct charges, based upon the Company's definition of Invested Capital, are as follows:

Period		Amount
January 1, to December 31, 1915	Credit	$ 6,211.86
January 1, to December 31, 1916:		
Per analysis of Interest Account	$ 12,743.50	
Interest Credited to Surplus Account in 1917, charged Wrigley's Ltd., London	20,109.67	
	Credit	32,853.17
(Note: The items of interest credited to Surplus in 1917 are not clearly explained on the records, and it is possible that the Wm. Wrigley Jr., Company may be able to produce data which would show that the amount credited back here should be modified)		
January 1, to December 31, 1917	Credit	17,746.39
January 1, to August 24, 1918	Credit	24,645.73
August 25, to October 4, 1918:		
Month of September	1,821.45	
Month of October—4/31 of $1,886.39	243.40	
	Credit	2,064.85

776

Period		Amount
October 5, to November 12, 1918:		
Month of October—27/31 of $1,886.39	$ 1,642.99	
Month of November—12/30 of $1,518.57	607.43	
	Credit	$ 2,250.42

If any change is made in the theory as to the composition of Invested Capital, the above figures will have to be revised.

Interest on the Pulver notes has been charged in each period, except those in 1918. Strictly speaking the interest accrued on the Pulver notes should be charged in these periods.

777 Advertising.

No attempt has been made to check the charges made in respect of advertising by the Wm. Wrigley Jr. Company in the Doublemint accounting, for the reason that in order to reduct expense it is highly desirable that the basis of apportionment as between Doublemint and other gum be decided upon before the accountant is instructed to check the figures.

778 Trade Discounts

The amounts charged by the Wm. Wrigley Jr. Company in the Doublemint accounting under this caption from July 28, 1914 to December 31, 1917, have not been checked, as an analysis of the advertising account would be necessary to enable this to be done.

The charge for the period from August 25 to October 4, 1918 has been checked and found to be made up as follows:

Trade Discounts—per Trade Discount Account:	
Month of September	$13,631.92
Month of October $11,927.31	
4/31 of $11,927.31 is	1,539.01
Total Trade Discounts	$15,170.93
Proportion applicable to Doublemint based on Doublemint sales to all sales or $19,-8089% is	$ 3,005.19

These trade discounts were in the nature of advertising allowances made to very large customers, and were based on sales.

779 Printing United Profit-Sharing Coupons and Freight and Express Charges, Etc., on Same

The items charged in the Doublemint accounting under this caption have not been checked for the reason that charges of this nature appear during the accounting period in three accounts:

1. Advertising Matter
2. United Profit-Sharing Coupons Redeemed
3. Reserve for United Profit-Sharing Coupon Redemptions

The two last accounts have been analyzed, but the first has not, and until this has been done the correctness of the charges made by the Wm. Wrigley Jr. Company cannot be verified.

780 United Profit-Sharing Coupons

United Profit-Sharing Coupons are issued by the United Profit-Sharing Corporation. That corporation sells its coupons to manufacturers and merchants who pack them with their goods, or else hand them to customers, the quantity of coupons given depending upon the value of the customers' purchases. The United Profit-Sharing Corporation redeems the coupons, either in cash or in merchandise.

From information at present at hand, there seems to be only one State—Wisconsin—which absolutely prohibits the use of United Profit-Sharing Coupons, and this prohibition has only been in force since January 1, 1918. Other states require that profit-sharing and like coupons be redeemed in cash; thirty-seven states, however, have no restrictions relative to the use of such coupons, while in one or two states coupons are to be made redeemable in cash or merchandise at the option of the holder.

United Profit-Sharing Coupons are, of course, an inducement to the public to buy goods with which coupons can be obtained, because in addition to the goods, the purchaser obtains coupons, which, although they are individually of small value, yet if sufficient quantities are collected the aggregate value is appreciable inasmuch as they can be redeemed for very attractive articles.

The Wm. Wrigley Jr., Company uses three classes of coupons. The first class is known as "Number 1." The value of a coupon of this class can be judged from the fact that the redemption value, in states which require a cash redemption value, is one-fifth of a cent. This coupon is used as a counterband for the five-stick packages of gum; in other words the outside wrapper of a five-stick package of
781 gum is a United Profit-Sharing Coupon. This class of coupon, of course, gets into the hands of the general public which purchases the gum from the retailers.

In each box of gum is inserted a "Dealer's Certificate" or a "Number Five" coupon. (There are exceptions to this rule, but as a broad statement it is sufficiently accurate.) The value of a "Dealer's Certificate" is five times that of a

"Number one" coupon. This class of coupon reaches the hands of the retailers, that is, the people who sell the gum to the public at large.

The third class of coupons used by the Wm. Wrigley Jr. Company is the "Number twenty-five" coupon. As indicated by the numeral, the value of this coupon is twenty-five times that of the "Number one"; in other words, the cash value is five cents. Coupons of this class were given to salesmen, ten such coupons being given for each one hundred boxes (no matter of which Wrigley brand) of gum sold from jobbers' stock. This statement is not to be taken to mean that these coupons were given with every one hundred boxes of gum sold; it means that salesmen could obtain these coupons on sales of the amount indicated, although with premium offers there were alternative inducements.

With these brief introductory remarks in mind, the problem of ascertaining the proper charge for the Doublemint accounting, in respect of United Profit-Sharing Coupons, can be approached.

The difficulty arises from the fact that the Wm. Wrigley Jr. Company does not pay for the coupons it issues, but only for the coupons redeemed. The Wm. Wrigley Jr. Company has two agreements with the United Profit-Sharing Corporation. The first is dated July 6, 1914 and provides that the

> Wm. Wrigley Jr. Company shall purchase coupons for
> 782 issuance from The United Profit-Sharing Corporation
> at the rate of $2.00 per thousand for the "Number one" coupons, the cost of the other classes being in proportion.

If this agreement had been followed, there would not have been any problem in the present case, as the Wm. Wrigley Jr. Company would simply have paid $2.00 a thousand for all coupons when reduced to terms of Number 1 coupons as and when issued; with such payment the Company's liability would have ceased.

The Wm. Wrigley Jr. Company is working under a supplementary agreement dated July 7, 1914, called the "Memoranda Agreement," which states that the "Memoranda Agreement" is "supplemental to the main agreement made and entered into between the same parties on the 6th day of July, 1914, a copy of which is attached hereto and made a part hereof." The main clause of this "Memoranda Agreement" provides as follows:

1. It is mutually understood and agreed between the parties that the manufacturer shall pay for said coupons

upon delivery, which have been redeemed and cancelled by the United Profit-Sharing Corporation, at the following rates:

United Coupons marked "1" at $3.00 per M, and all coupons bearing numerals higher than "1" at the rate of $3.00 per M for each digit above the numeral "1", to wit:

$6.00 per M for each coupon bearing numeral "2"
$9.00 per M for each coupon bearing numeral "3"
$12.00 per M for each coupon bearing the numeral "4"
etc.

783 The fact that the Wm. Wrigley Jr. Company is working under this "Memoranda Agreement" introduces a complication into the Doublemint accounting. What the Wm. Wrigley Jr., Company had, to the end of the accounting period, paid out in respect of coupon redemptions is readily ascertainable, and has been correctly reported in the accounts filed before the Master. But there will in the future be returned for redemption coupons from Doublemint gum sold during the account period and accounted for on the statements filed by the Wm. Wrigley Jr., Company. Thus, at the end of the accounting period the Wm. Wrigley Jr., Company finds itself faced with a liability, certain in its nature, but uncertain in amount, arising out of sales accounted for before the Master.

If the coupons had been issued in series, and the redeemed coupons had been assorted and counted by series, and statistics prepared which would have shown the percentage of redemptions to issues by series, the problem in the present case would have been greatly simplified. The method outlined in the theoretically correct one for obtaining the necessary data, but, as a commercial proposition in the case of the Wm. Wrigley Jr., Company, it is impossible at the present time, and was impossible from the start. For the past three years the number of coupons has averaged 10,000,000 a month or more. To have sorted this enormous quantity in different series would have been entirely impracticable, especially as the No. 1 coupons constituted by far the largest proportion of the number of pieces of paper which would have had to be handled, and, the No. 1. coupons, being the outer wrappers of the packets of chewing gum, could not very readily be conspiciously marked so as to denote the different series.

784 The Wm. Wrigley Jr., Comapny has kept records of all coupons (of all three classes separately) issued by

it, and it has also tabulated the redemptions. But no date that can be obtained from these figures (unless certain arbitrary assumptions are made) can be used in making a fair estimate of the contingent liability in respect of prospective redemptions of coupons issued in connection with the sale of Doublemint gum during the accounting period. The chief question is this: To the issues of what period do the redemptions, on the average, apply? With the redemptions of any one month, it is quite conceivable that there will be coupons issued in that month, and perhaps coupons issued three years or more previously. The United Profit-Sharing Coupons are, of course, issued by concerns other than the Wm. Wrigley Jr., Company, and all such coupons no matter by whom issued, are honored for redemption by the United Profit-Sharing Corporation. In other words, the United Profit-Sharing Corporation, through its catalogs, notifies the public that certain articles of merchandise will be exchanged for stated quantities (or values) of United Profit-Sharing Coupons, and it does not matter how many coupons were issued by one concern or by another, so long as the specified quantities of United Profit-Sharing Coupons are presented for redemption. Of course, this feature of interchangeability of United Profit-Sharing Coupons should result in the coupons issued by the Wm. Wrigley Jr., Company being redeemed more quickly than would otherwise be the case, and it should also result in more coupons being redeemed. In other words, the size of the business of the Wm. Wrigley Jr., Company is not necessarily the controlling factor in the value of Wrigley's coupons redeemed.

785 Having thus drawn attention to a circumstance which would normally accelerate redemptions, and probably actually increase them over what they would otherwise be, it might be well to consider the probable effect of the war thereon.

In the first place, the high prices of merchandise must have had an affect on redemptions, possibly in three ways, as follows:

(a) A greater number of coupons would be reqired for the article desired.

(b) Merchandise being higher priced, and hard to obtain, the variety of articles offered by the United Profit-Sharing Corporation would not be so great, and the tendency among

coupon collectors would probably be to hold their coupons until a greater variety of articles were available for selection.

(c) Then, again, the war took out of this country a vast army of young men, men at the ages when coupon collecting is probably most common, among men. Consequently there is every likelihood that these soldier coupon collectors left behind them quantities of coupons, and very probably now that they are back will complete their collections. On the other hand large numbers of such collections may have been destroyed when the men went away.

The following statement represents the result of a test made to ascertain whether or not the coupon value of merchandise offered by the United Profit-Sharing Corporation had increased materially since 1916:

TEST OF COUPON—VALUES OF MERCHANDISE OFFERED BY THE UNITED PROFIT-SHARING CORPORATION, GIVING IN COMPARATIVE FROM THE VALUES SHOWN BY FOUR SUCCESSIVE CATALOGUES

Note—Branded Merchandise only has been selected for this test so that the same articles are compared throughout.

Article No.	Description of Article	Number of Coupons Required				Increase over first Catalog
		Catalogs expiring				
		Sept. 1'16	May 31'17	June 30'18	Dec. 31'18	
359	Boston Garters	60	75	90	90	50%
271	Ever-Ready Safety Razor Blades	125	175	175	175	40
106	"Griffon" Pocket Knife	175	200	200	200	71
645	Kraenter's Victor Automobile Plier	200	250	300	350	75
336	Gillette Safety Razor Blades	250	325	325	325	30
396	"Rubberset" Shaving Brush	250	300	375	375	50
654	Kelso Bass Casting or Trolling Line	275	300	425	425	55
394	"Onyx" Lisle Socks	375	500	500	575	53
414	"Onyx" Silk Socks	500	625	750	825	65
48	"Carbo Magnetic" Razor	625	875	875	875	40
275	Gillette Safety Razor	1,250	1,375	1,375	1,375	10
232	Elgin or Waltham Watch	3,750	3,750	4,250	4,500	20
233	Elgin or Waltham Hunting Case	4,000	4,000	5,000	5,000	25
436	Eagle Pencil Co., Desk Companion	125	125	175	175	40
541	Camera Premo Jr., Model "B"	375	500	500	625	66

428	Winslow's Ball-Bearing Roller Skates	500	675	1,000	1,000	100
556	Erector Set	500	625	625	625	25
807	Swift's Maxine Elliott Toilet Soap	125	125	150	200	60
280	Prophylactic Nail Brush	250	300	300	350	40
405	Whiting's Stationery	50	75	100	100	100
457	Howard Dustless Duster	60	60	60	90	50
631	"Faultless" Combination Suit Hanger	60	60	75	90	50
278	"Wiss Dressmaking Shears	200	250	400	500	150
256	Six After Dinner Coffee Spoons (Wm. Rogers & Son)	300	300	450	500	66
395	"Onyx" Lisle Stockings	375	500	625	625	66
249	"Rotator" Alarm Clock	375	625	750	750	100
416	"Onyx" Silk Stockings	500	625	750	825	65
380	Whiting's Organdie Stationery	500	625	800	800	60
15	Nethersole Bracelet	750	750	875	875	17
332	"Ideal" Coffee Percolator	625	625	750	750	20
664	"Klosfit" Petticoat	750	750	875	875	17
392	Bissell's "Princeton" Carpet Sweeper	875	1,250	1,250	1,375	57
709	Bissell's Combination Vacuum Sweeper	2,500	2,750	2,875	3,250	30
	Total	21,630	24,345	28,025	29,770	

Note—The increases between the first and last catalogues range from 10% to 150%. There is no method of ascertaining the average increase, unless data were available showing in what proportions the various

787 articles were called for by the public. Probably, however, the average obtained from the total figures—37.6% is not too low, but this is mere guesswork.

Only branded articles were considered in this test, to make sure that the identical article was offered throughout.

All the items investigated appear on the above list. No article which did not appear in all catalogues has been considered.

The foregoing statement does not show the very wide range of articles offered by the United Profit-Sharing Corporation, nor the very wide difference in values.

The following statement showing the coupons issued by the Wm. Wrigley Jr., Company and also the coupons redeemed for the period from September, 1914 to December 31, 1918, is now submitted:

DATA RELATIVE TO UNITED PROFIT-SHARING COUPONS ISSUED AND REDEEMED

1914		No. 1 Coupons				No. 5 Coupons				No. 25 Coupons				Total Coupons in terms of #1			
		Issued	Redeemed No.	%	Unredeemed No.	%	Issued	Redeemed No.	%	Unredeemed No.	%	Issued	Redeemed No.	%	Unredeemed No.	%	Issued	Redeemed No.	%	Cost of Redemptions	Unredeemed No.	%
September		35,105,087	1,231				1,730,724	2,125												$ 35.57		
October		27,085,334	73,542				1,349,411	7,859												338.51		
November		19,921,387	405,804				955,601	34,745												1,738.59		
December		19,734,961	811,190				970,545	72,224												3,513.93		
	Total 1914	101,846,769	1,291,767		100,555,002		5,006,281	116,953		4,889,328							126,878,174	1,876,532		5,626.60	125,001,642	
1915																						
January		20,890,666	1,353,602				1,059,293	118,788														
February		20,646,874	1,321,230				991,505	137,473												5,842.63		
March		27,024,759	2,414,416				1,290,941	238,226				5,174	14							6,026.83		
April		25,420,760	3,659,402				1,227,813	241,328				22,131	838							10,879.49		
May		26,941,400	3,413,993				1,284,817	177,796				16,730	1,993							14,747.60		
June		31,736,600	4,619,921				1,519,915	260,127				20,081	2,643							13,107.14		
July		31,884,320	5,389,869				1,505,829	302,331				22,253	4,758							18,118.52		
August		29,573,660	5,715,064				1,412,417	330,685				26,279	5,471							21,114.90		
September		31,517,660	5,671,045				1,505,651	320,391				27,353	8,150							22,716.72		
October		26,923,380	6,232,854				1,290,948	368,670				26,476	8,962							22,491.15		
November		29,670,054	5,698,938				1,410,764	556,239				26,446	9,053							24,907.59		
December		28,805,800	7,210,314				1,400,604	739,460				27,985	16,818							26,701.75		
												34,996	22,735							34,427.97		
	Total 1915	331,035,933	52,700,648		278,335,285		15,900,497	3,791,514		12,108,983		255,904	81,435		174,469		416,936,018	73,694,093		221,082.29	343,241,925	
789	Total to end of 1915	432,882,702	53,992,415		378,890,287		20,906,778	3,908,467		16,998,311		255,904	81,435		174,469		543,814,192	75,570,625		226,708.89	468,243,567	
1916																						
January		27,092,180	8,647,457				1,316,315	837,874				29,623	34,414							41,091.53		
February		28,112,120	6,728,166				1,358,923	473,541				20,836	18,597							28,682.39		
March		33,437,224	7,081,228				1,602,801	696,271				30,594	19,133							33,122.72		
April		32,018,560	6,230,593				1,547,412	618,320				25,830	21,956							29,613.28		
May		40,352,660	8,132,039				1,936,156	658,626				29,805	18,315							35,649.13		
June		45,507,120	9,345,167				2,181,337	965,457				39,182	24,019							44,318.78		
July		38,243,240	10,880,169				1,841,231	1,061,814				33,438	31,048							50,896.32		
August		44,511,708	10,270,138				2,058,775	1,003,427				33,718	31,191							48,201.14		
September		37,306,480	8,754,296				1,790,356	909,907				31,340	22,121							41,570.57		
October		42,793,800	9,000,477				2,014,535	885,616				36,826	25,054							42,164.72		
November		38,423,560	8,993,504				1,822,043	981,970				37,322	32,405							44,140.44		
December		28,817,338	15,360,295				1,388,856	1,606,074				46,404	89,112							76,855.40		
	Total 1916	436,615,990	109,423,529		327,192,461		20,858,740	10,698,897		10,159,843		394,918	367,365		27,553		550,782,640	172,102,139		516,306.42	378,680,501	
	Total to end of 1916–Carried Forward	869,498,692	163,415,944		706,082,748		41,765,518	14,607,364		27,158,154		650,822	448,800		202,022		1,094,596,832	247,672,764		$ 743,015.31	846,924,068	
790	Total to end of 1916—Brought Forward	869,498,692	163,415,944		706,082,748		41,765,518	14,607,364		27,158,154		650,822	448,800		202,022		1,094,596,832	247,672,764		$ 743,015.31	846,924,068	
1917																						
January		39,681,380	12,495,634				1,813,737	1,350,779				34,451	38,998							60,673.44		
February		34,470,940	6,611,020				1,662,046	781,356				33,333	24,393							33,382.88		
March		41,088,871	10,538,418				1,966,770	1,132,228				37,089	33,844							51,136.97		
April		43,037,180	8,956,736				2,070,171	919,051				37,374	29,897							42,898.25		
May		52,011,880	11,095,873				2,502,799	1,273,043				39,625	41,288							55,479.86		
June		50,755,620	12,280,094				2,458,178	1,281,413				39,758	36,994							58,836.03		
July		38,822,340	11,032,989				1,870,364	1,247,897				34,723	36,390							54,546.67		
August		47,748,160	9,542,480				2,233,353	1,020,966				44,368	32,266							46,361.88		
September		53,157,080	9,330,141				2,539,324	985,965				42,640	32,778							45,238.25		
October		55,538,260	10,909,484				2,654,119	1,146,661				42,438	34,718							52,532.22		
November		46,413,820	11,360,776				2,211,502	1,313,007				50,784	44,252							57,096.33		
December		36,990,220	15,376,227				1,651,592	1,889,015				53,394	81,380							80,567.41		
	Total 1917	539,715,751	129,529,872		410,185,879		25,633,955	14,341,381		11,292,574		489,977	467,198		22,779		680,134.951	212,916,727		638,750.19	467,218,224	
791	Total to end of 1917	1,409,214,443	292,945,816		1,116,268,627		67,399,473	28,948,745		38,450,728		1,140,799	915,998		224,801		1,774,731,783	460,589,491		1,381,765.50	1,314,142,292	
1918																						
January		37,901,240	10,903,386				1,837,443	1,195,313				42,804	39,671							53,615.18		
February		46,699,420	7,231,871				2,283,591	882,389				37,739	31,913							37,324.92		
March		60,542,560	8,065,654				2,928,756	926,237				37,852	35,271							40,735.84		
April		56,191,308	8,822,883				2,704,837	1,011,387				46,163	29,135							43,824.58		
May		42,698,099	10,961,091				2,091,450	1,383,246				48,394	43,335							56,882.09		
June		47,704,043	10,412,609				2,259,574	1,452,977				42,365	41,469							56,142.66		
July		44,766,080	10,597,622				2,181,631	1,382,123				36,606	37,265									
August		43,104,060	10,674,438																			

1914														
September		35,105,087	1,231		1,730,724	2,125							$ 35.57	
October		27,085,334	73,542		1,349,411	7,859							338.51	
November		19,921,387	405,804		955,601	34,745							1,738.59	
December		19,734,961	811,190		970,545	72,224							3,513.93	
	Total 1914	101,846,769	1,291,767	100,555,002	5,006,281	116,953	4,889,328				126,878,174	1,876,532	5,626.60	125,001,642
1915														
January		20,890,666	1,353,602		1,059,293	118,788							5,842.63	
February		20,646,874	1,321,230		991,505	137,473		5,174	14				6,026.83	
March		27,024,759	2,414,416		1,290,941	238,226		22,131	838				10,879.49	
April		25,420,760	3,659,402		1,227,813	241,328		16,730	1,993				14,747.60	
May		26,941,400	3,413,993		1,284,817	177,796		20,081	2,643				13,107.14	
June		31,736,600	4,619,921		1,519,915	260,127		22,253	4,758				18,118.52	
July		31,884,320	5,389,869		1,505,829	302,331		26,279	5,471				21,114.90	
August		29,573,660	5,715,064		1,412,417	330,685		27,353	8,150				22,716.72	
September		31,517,660	5,671,045		1,505,651	320,391		26,476	8,962				22,491.15	
October		26,923,380	6,232,854		1,290,948	368,670		26,446	9,053				24,907.59	
November		29,670,054	5,698,938		1,410,764	556,239		27,985	16,818				26,701.75	
December		28,805,800	7,210,314		1,400,604	739,460		34,996	22,735				34,427.97	
	Total 1915	331,035,933	52,700,648	278,335,285	15,900,497	3,791,514	12,108,983	255,904	81,435	174,469	416,936,018	73,694,093	221,082.29	343,241,925
789	Total to end of 1915	432,882,702	53,992,415	378,890,287	20,906,778	3,908,467	16,998,311	255,904	81,435	174,469	543,814,192	75,570,625	226,708.89	468,243,567
1916														
January		27,092,180	8,647,457		1,316,315	837,874		29,623	34,414				41,091.53	
February		28,112,120	6,728,166		1,358,923	473,541		20,836	18,597				28,682.39	
March		33,437,224	7,081,228		1,602,801	696,271		30,594	19,133				33,122.72	
April		32,018,560	6,230,593		1,547,412	618,320		25,830	21,956				29,613.28	
May		40,352,660	8,132,039		1,936,156	658,626		29,805	18,315				35,649.13	
June		45,507,120	9,345,167		2,181,337	965,457		39,182	24,019				44,318.78	
July		38,243,240	10,880,169		1,841,231	1,061,814		33,438	31,048				50,896.32	
August		44,511,708	10,270,138		2,058,775	1,003,427		33,718	31,191				48,201.14	
September		37,306,480	8,754,296		1,790,356	909,907		31,340	22,121				41,570.57	
October		42,793,800	9,000,477		2,014,535	885,616		36,826	25,054				42,164.72	
November		38,423,560	8,993,504		1,822,043	981,970		37,322	32,405				44,140.44	
December		28,817,338	15,360,295		1,388,856	1,606,074		46,404	89,112				76,855.40	
	Total 1916	436,615,990	109,423,529	327,192,461	20,858,740	10,698,897	10,159,843	394,918	367,365	27,553	550,782,640	172,102,139	516,306.42	378,680,501
	Total to end of 1916—Carried Forward	869,498,692	163,415,944	706,082,748	41,765,518	14,607,364	27,158,154	650,822	448,800	202,022	1,094,596,832	247,672,764	$ 743,015.31	846,924,068
790	Total to end of 1916—Brought Forward	869,498,692	163,415,944	706,082,748	41,765,518	14,607,364	27,158,154	650,822	448,800	202,022	1,094,596,832	247,672,764	$ 743,015.31	846,924,068
1917														
January		39,681,380	12,495,634		1,813,737	1,350,779		34,451	38,998				60,673.44	
February		34,470,940	6,611,020		1,662,046	781,356		33,333	24,393				33,382.88	
March		41,088,871	10,538,418		1,966,770	1,132,228		37,089	33,844				51,136.97	
April		43,037,180	8,956,736		2,070,171	919,051		37,374	29,897				42,898.25	
May		52,011,880	11,095,873		2,502,799	1,273,043		39,625	41,288				55,479.86	
June		50,755,620	12,280,094		2,458,178	1,281,413		39,758	36,994				58,836.03	
July		38,822,340	11,032,989		1,870,364	1,247,897		34,723	36,390				54,546.67	
August		47,748,160	9,542,480		2,233,353	1,020,966		44,368	32,266				46,361.88	
September		53,157,080	9,330,141		2,539,324	985,965		42,640	32,778				45,238.25	
October		55,538,260	10,909,484		2,654,119	1,146,661		42,438	34,718				52,532.22	
November		46,413,820	11,360,776		2,211,502	1,313,007		50,784	44,252				57,096.33	
December		36,990,220	15,376,227		1,651,592	1,889,015		53,394	81,380				80,567.41	
	Total 1917	539,715,751	129,529,872	410,185,879	25,633,955	14,341,381	11,292,574	489,977	467,198	22,779	680,134,951	212,916,727	638,750.19	467,218,224
791	Total to end of 1917	1,409,214,443	292,945,816	1,116,268,627	67,399,473	28,948,745	38,450,728	1,140,799	915,998	224,801	1,774,731,783	460,589,491	1,381,765.50	1,314,142,292
1918														
January		37,901,240	10,903,386		1,837,443	1,195,313		42,804	39,671				53,615.18	
February		46,699,420	7,231,871		2,283,591	882,389		37,739	31,913				37,324.92	
March		60,542,560	8,065,654		2,928,756	926,237		37,852	35,271				40,735.84	
April		56,191,308	8,822,883		2,704,837	1,011,387		46,163	29,135				43,824.58	
May		42,698,099	10,961,091		2,091,450	1,383,246		48,394	43,335				56,882.09	
June		47,704,043	10,412,609		2,259,574	1,452,977		42,365	41,469				56,142.66	
July		44,766,080	10,597,622		2,181,631	1,382,123		36,606	37,265				55,319.59	
August		43,104,060	10,674,438		2,074,514	1,399,075		44,090	51,522				56,873.59	
September		34,412,340	8,889,027		1,653,398	1,183,935		21,974	41,020				47,502.61	
October		46,932,400	10,089,706		2,245,229	1,369,840		11,733	38,065				53,671.59	
November		42,604,040	9,720,591		2,037,915	1,304,304		3,739	23,145				50,462.21	
December		50,937,320	3,163,118		2,451,949	445,590		10,613	5,062				16,552.85	
	Total 1918	554,492,910	109,531,996	444,960,914	26,750,287	13,936,416	12,813,871	384,072	416,873	32,801	697,846,145	189,635,901	568,907.71	508,219,244
	Total to end of 1918	1,963,707,353	402,477,812	1,561,229,541	94,149,760	42,885,161	51,264,599	1,524,871	1,332,871	192,000	2,472,577,928	650,225,392	$1,950,673.21	1,822,352 536

792 Note—The issues have been taken from the factory reports. The redemptions have been taken from the invoices rendered by the United Profit-Sharing Corporation. The division between the various class #1, #5 and #25 is not strictly correct, as some of the invoices during 1915 did not distinguish between the various classes. Consequently the redemptions of #1 are somewhat overstated and those of the other classes are understated.

Items aggregating $2,483.83 or some 825,000 coupons in terms of #1, were billed back to the United Profit-Sharing Corporation because coupons other than those issued by Wrigleys were returned. The above statements has not been corrected by deduction from the redemptions of these "outside" coupons, as the number is so relatively small as not to affect the utility of the statement.

A statement giving certain precentages in connection with the redemption of United Profit-Sharing Coupons, worked up from the figures already presented, is now submitted:

	No. 1 Coupons			No. 5 Coupons			No. 25 Coupons			Total Coupons in terms of $1		
	Issued	Re-deemed	Unre-deemed	Issued	Re-deemed	Unre-deemed	Issued	Re-deemed	Unre-deemed	Issued	Re-deemed	Unre-deemed
1 Percentage of Coupons Redeemed and Unredeemed for each year, based on issues for that year:												
1914	100.000	1.268	98.732	100.000	2.336	97.667	.....	.....	.....	100.000	1.479	98.521
1915	100.000	15.920	84.080	100.000	23.845	76.155	100.000	31.822	68.178	100.000	17.675	82.325
1916	100.000	25.062	74.938	100.000	51.292	48.708	100.000	93.023	6.977	100.000	31.247	68.753
1917	100.000	24.000	76.000	100.000	55.947	44.053	100.000	95.351	4,649	100.000	31.305	68.695
1918	100.000	19.754	80.246	100.000	52.098	47.902	100.000	108.540	*8.540*	100.000	27.174	72.826
Average	100.000	20.496	79.504	100.000	45.550	54.450	100.000	87.409	12.591	100.000	26.297	73.703
2 Cumulative Percentages of Coupons Redeemed and Unredeemed, bases on total issues to the end of each year:												
1914	100.000	1.268	98.732	100.000	2.336	97.667	.....	.....	.....	100.000	1.479	98.521
1915	100.000	12.473	87.527	100.000	18.695	81.305	100.000	31.822	68.178	100.000	13.896	86.104
1916	100.000	18.794	81.206	100.000	34.975	65.025	100.000	68.959	31.041	100.000	22.627	77.373
1917	100.000	20.788	79.212	100.000	42.951	57.049	100.000	80.294	19.706	100.000	25.953	74.047
1918	100.000	20.496	79.504	100.000	45.550	54.450	100.000	87.409	12.591	100.000	26.297	73.703
3 Percentage of Increase of Issues and Redemptions each year, based on the figures for the preceding year:												
1914	First year of Issue											
1915	First full year of Issue											
1916	31.89%	107.63%		31.18%	182.18%		54.32%	351.11%		32.10%	133.54%	
1917	23.61	18.37		22.89	34.05		24.07	27.18		23.49	23.72	
1918	2.74	*15.44*		4.35	*2.89*		*21.61*	*10.77*		2.60	*10.98*	

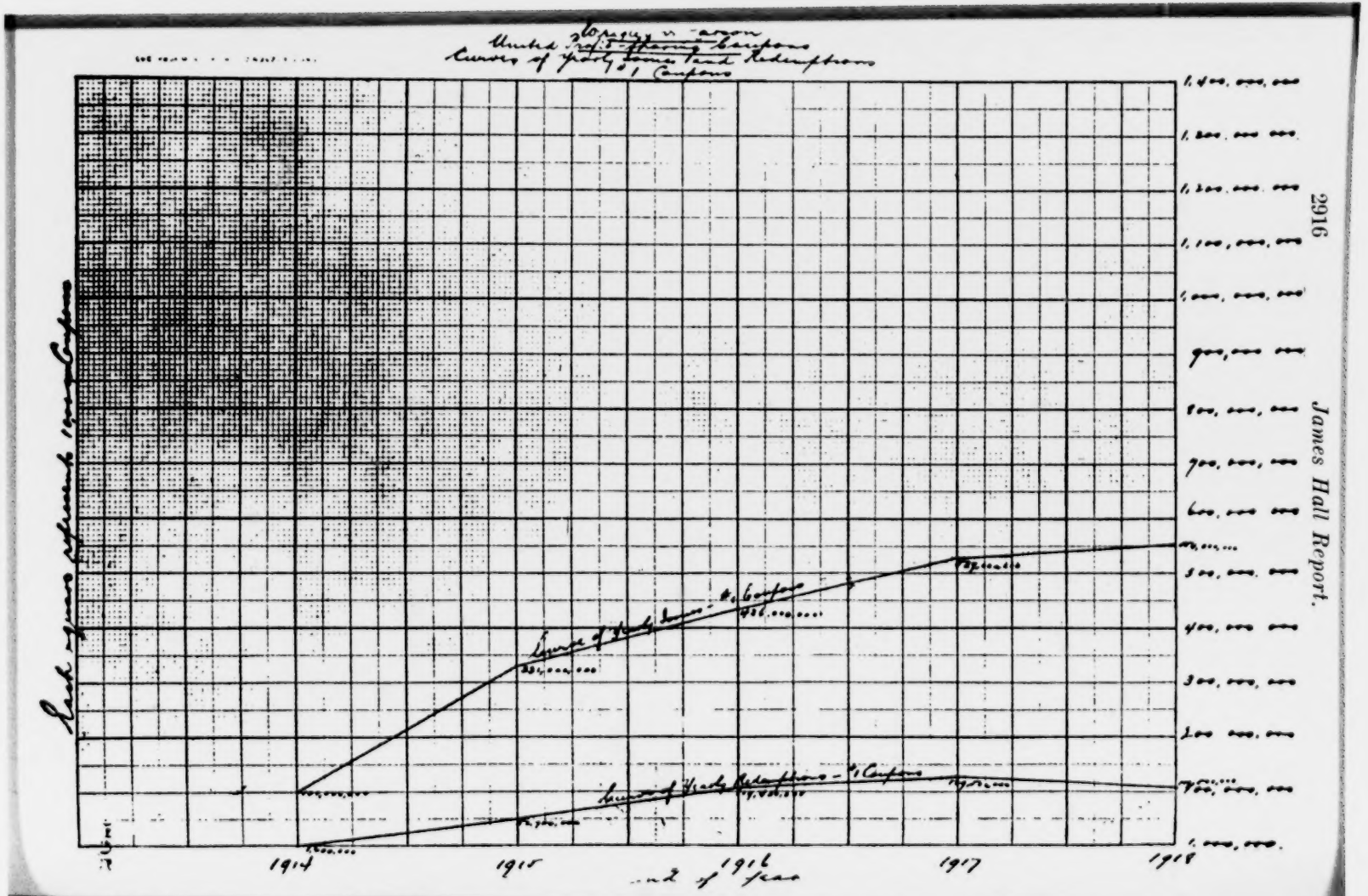
794 This statement is valuable only as an illustration of the difficulty of the problem. Otherwise it is valueless, for the reasons now given, each group being dealt with in turn:

1. Percentages of Coupons Redeemed and Unredeemed for each year, based on the issues for that year. The redemptions in any year have no connection with the issues for that year. Broadly speaking, it can be said that only such coupons as are required to round out collections of coupons issued in previous years are redeemed in the year of issue.

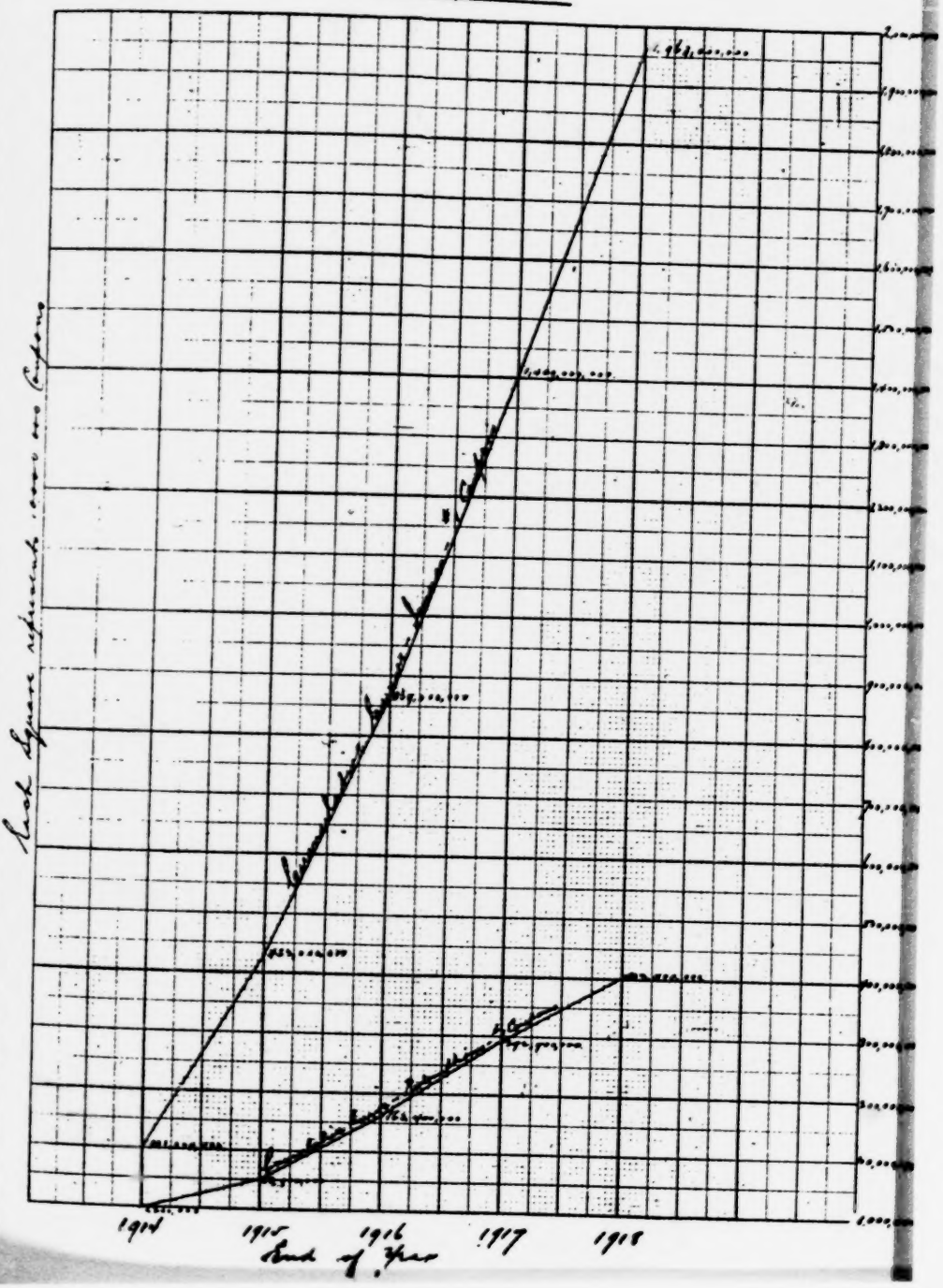
2. Cumulative Percentages of Coupons Redeemed and Unredeemed based on total issues to the end of each year. These percentages are of no value, because the redemptions are stated as percentages of the total issues to the end of any year. Included in the issues are a tremendous quantity of coupons which have had no chance to be redeemed. In order to get any results from this line of reasoning, it would have to be assumed that the redemption to end of any year represented redemptions of coupons issued to a certain date; that the coupons already redeemed which were issued after that date will be offset by coupons issued prior to that date which will be redeemed in the future.

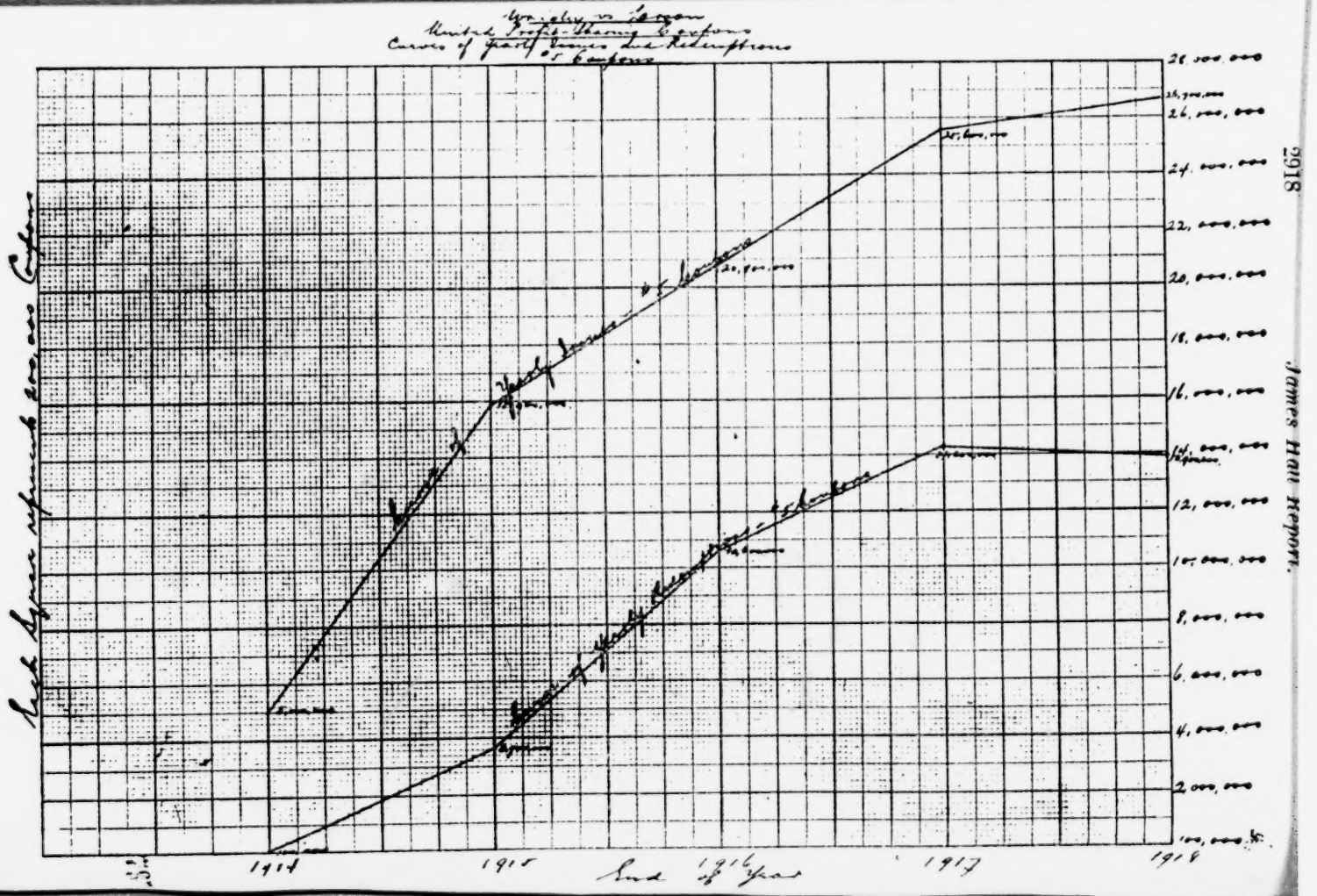
3. Percentage of Increase of Issues and Redemptions each year based on the figures for the preceding year. In the first place, the available percentages in this case are too few; it is impossible to tell from three sets of figures whether or not the trend is for the issues to exceed redemptions. Furthermore, because at the outset the figures relative to issues are so much greater than those relative to redemptions, the respective sets of percentages do not convey any adequate idea of comparative values.

In order that a better idea may be obtained of the problem than is possible from a perusal of a mass of figures, charts are now presented showing, in respect of each class—Nos. 1, 5 and 25—of coupons (a) Curves of yearly issues and redemptions, and (b) Cumulative Curves of issues and redemptions:


Number of Telephones
Curves of Yearly Increase and Redemptions
Each square represents 1000 Telephones
1914
1915
1916
1917
1918
End of Year

Wrigley vs Larson
United Profs-Steering Coupons
Cumulative Curves of Issues & Redemptions
#1 Coupons



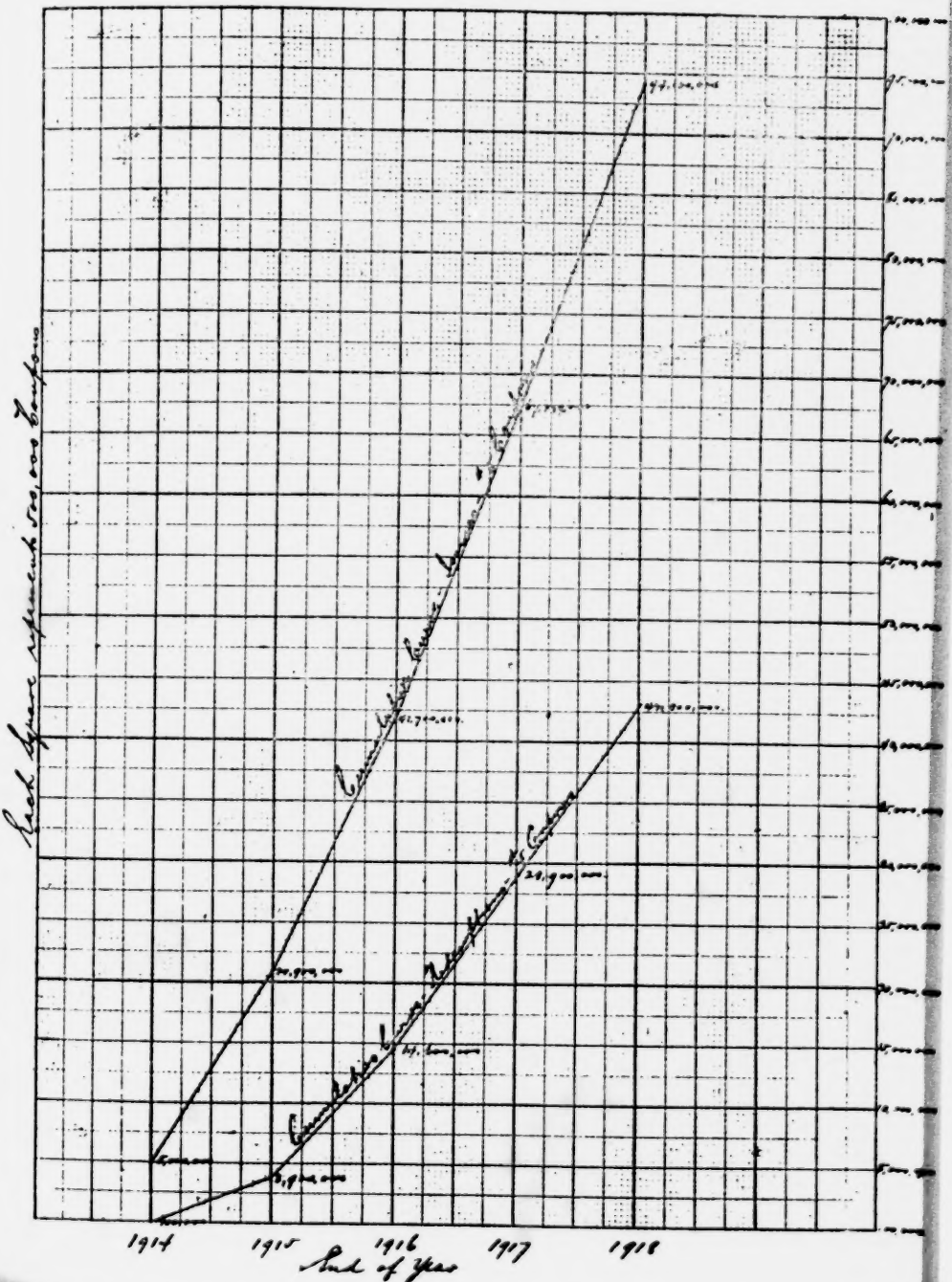

Curves of Yearly Values and Redemptions
Cash Sales amounts 200,000 Coupons
1914
1915
1916
1917
1918
26,000,000
24,000,000
22,000,000
20,000,000
18,000,000
16,000,000
14,000,000
12,000,000
10,000,000
8,000,000
6,000,000
4,000,000
2,000,000
100,000

Wrigley vs. Doeon

United Profit-Sharing Coupons

Cumulative Curves of Issues and Redemptions

of 5 Coupons

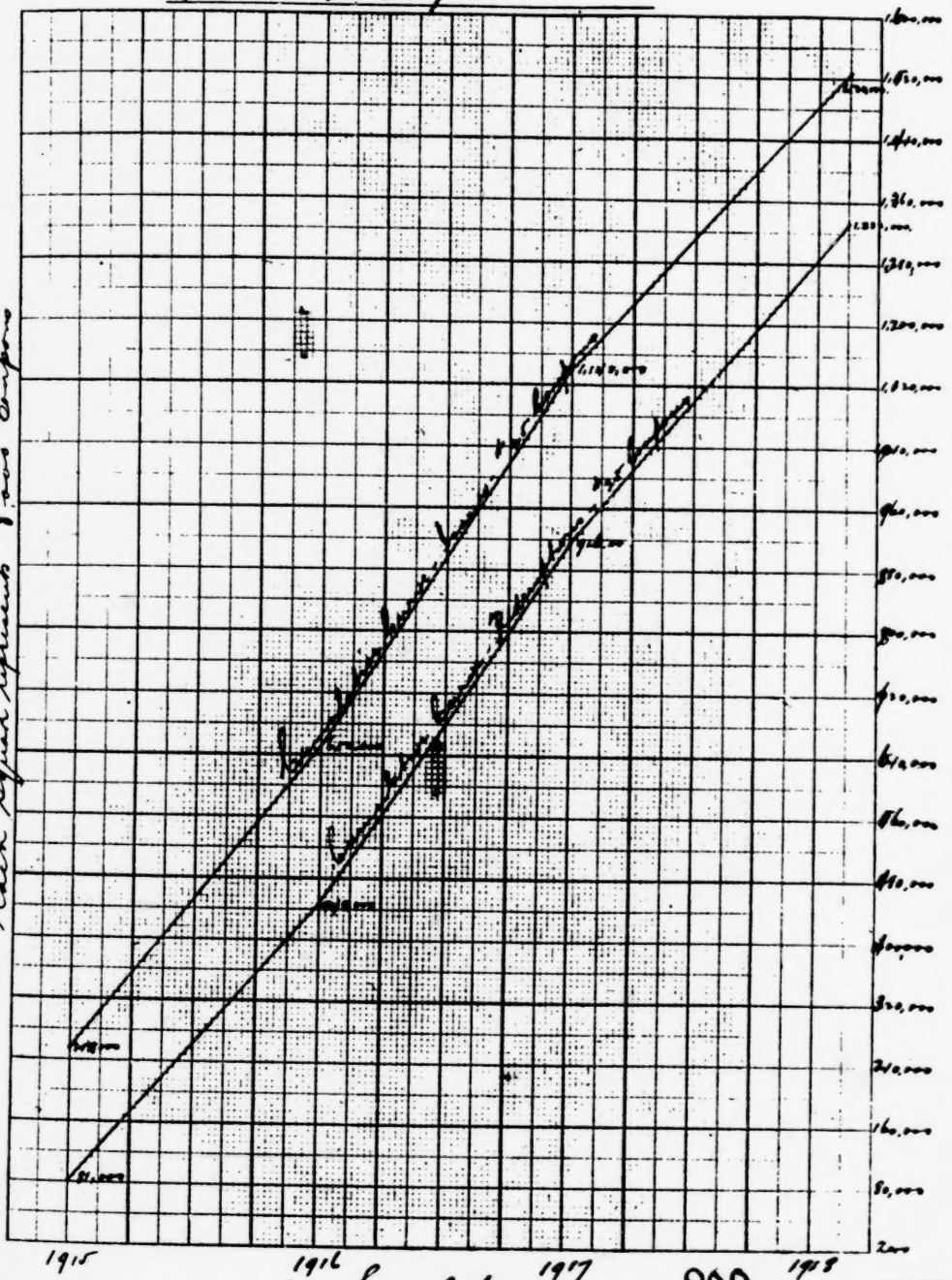


Wrigley vs Larson

United Profit-Sharing Coupons

Cumulative Curves of Issues and Redemptions

of 5 Coupons.



801 Certain conclusions are forced upon one. Unless it is decided that when the Wm. Wrigley Jr., Company elected to work under the second contract with the United Profit-Sharing Corporation (referred to in the opening remarks on this subject) it, in a manner of speaking, entered a branch of business which could be distinguished from the business of the manufacture and sale of Doublemint, then the present difficulty will have to be resolved arbitrarily. If it is so decided, then the Wm. Wrigley Jr., Company could charge in the present accounting $2.00 per M on all coupons issued (when reduced to terms of No. 1 coupons) which was the market price as evidenced in the main agreement between the Wm. Wrigley Jr., Company and the United Profit-Sharing Corporation; only by following this line of reasoning, as has been said, can a definite basis be arrived at. Any other basis will necessarily be arbitrary.

If the difficulty has to be resolved arbitrarily, there are certain conclusions and suggestions which might be considered. In the first place, when the agreement with the United Profit-Sharing Corporation were made by the Wm. Wrigley Jr., Company, the following prices were fixed (reduced to terms of No. 1 coupons):

$2.00 per M if paid for as issued.

$3.00 per M if paid for as redeemed.

Assuming the United Profit-Sharing Corporation expected the same profit in both cases, then it must have anticipated 66-2/3% of all coupons issued being redeemed, as shown by the following calculation:

802 For $1,200.00 at the first rate, 600,000 coupons would have been issued.

For $1,200.00 at the second rate, 400,000 coupons would have been redeemed.

The United Profit-Sharing Corporation would have received the same amount in each case; therefore, if it figured the same rate of profit in both cases (and, with the exception of the interest factor, there is apparently no reason why it should not), it expected that 66-2/3% of all coupons issued by the Wm. Wrigley Jr., Company would be redeemed. Of course if the United Profit-Sharing Corporation is paid cash down when coupons are issued, it obviously makes money in respect of interest as compared in what amounts, in large measure, to reimbursements received by it when it is paid for coupons redeemed. In view of this factor, which must be important, the redemptions expected

by the United Profit-Sharing Corporation were possibly somewhat less than 66-2/3% of the issues; but it must not be forgotten that when it is paid for actual redemptions, the United Profit-Sharing Corporation is under no risk in the transaction, the profit being definite, whereas in the other case, the redemptions might exceed the expectation, thus reducing the profit.

From the standpoint of the Wm. Wrigley Jr., Company the situation is this: Neglecting the interest factor, if the redemptions ultimately prove to less than 66-2/3% of the issues, it has made a good bargain; if they should prove to be more than 66-2/3% of the issues, it has made a bad bargain. The ordinary relations are reversed; the risk usually assumed by the United Profit-Sharing Corporation is assumed by the Wm. Wrigley Jr., Company.

A perusal of the charts and statements heretofore submitted shows very clearly that the different classes of coupons should be considered separately. The conditions surrounding the various classes are different because, as already explained, they get into the hands of different sets of 803 people. It would seem therefore that if evidence is introduced in connection with this subject, it should be indentified with the various classes of coupons, otherwise undue weight might be attached to testimony. For instance if a corporation were to use exclusively coupons equivalent in value to the No. 25 coupons used by the Wm. Wrigley Jr., Company, the experience of that Company would not be of much value in assisting anybody to determine a fair rate of redemptions in connection with Wrigley's No. 1 coupons.

If an arbitrary settlement of this problem is to be made, the necessity arises from the inherent difficulties of the subject, and not from any confusion in the records of the Wm. Wrigley Jr., Company. It cannot be conceived how, by keeping its records in a manner feasible from a commercial as opposed to a theoretic standpoint the Wm. Wrigley Jr., Company could have given any assistance towards the solution of the difficulty.

The essence of the problem has been stated before, but it will do no harm to repeat it: The redemptions to any date being known, to the issues of what period do they on the average apply? In other words, to what date must the issues be aggregated for comparison with the redemptions up-to-date; it has got to be assumed that the coupons issued prior

to the date determined redeemed hereafter will be offset by the coupons issued after that date already redeemed.

The charge made by the Wm. Wrigley Jr., Company in the present accounting in respect of United Profit-Sharing Coupons is divided into two sections: (a) Proportion of amount paid for United Profit-Sharing Coupons, and (b) Proportionate contingent liability for unredeemed Doublemint United Profit-Sharing Coupons based on Doublemint packages shipped as compared with total number of packages shipped bearing United Profit-Sharing Coupons. Together,
804 these two amounts are equal to the proportion applicable to Doublemint (according to the computation of the Wm. Wrigley Jr., Company) of a charge for United Profit-Sharing Coupons based on 50% of the issues. In other words, the Wm. Wrigley Jr., Company has estimated that 50% of all coupons issued will be redeemed, and has made a charge (split in two parts under the captions mentioned) in the Doublemint accounting accordingly.

It was found, by checking the factory reports of United Profit-Sharing Coupons issued with the record upon which the Wm. Wrigley Jr., Company based its charges in respect of United Profit-Sharing Coupons in the present accounting, that slight errors had been made which will necessitate changes in the figures of the Wm. Wrigley Jr., Company, even if the basis upon which its charges have been made is upheld by the court. These changes will result in a very slight increase in the charges made in respect of United Profit-Sharing coupons in the Doublemint accounting.

No statement is presented with this report which purports to show the correct charges which should be made in the Doublemint accounting in respect of United Profit-Sharing Coupons, because, as has been pointed out, unless the definite basis of the first contract with the United Profit-Sharing Corporation can be legally used in a case of this kind, the charges finally allowed will of necessity have to be determined upon an arbitrary basis. I do not feel that I can suggest any basis of estimating the liability in respect of unredeemed coupons with the conviction that justice would be done to both parties to this suit. The experience of the Wm. Wrigley Jr., Company with United Profit-Sharing Coupons has been over so short a period that it is doubtful if in any event a fair estimate of the liability in respect of unredeemed coupons could have been made, based on Wrig-
805 ley's figures only; when the conditions prevailing throughout the period 1915-1918 are taken into consid-

eration, it almost becomes necessary to ascertain the experience of some concern doing a national business (and using the classes of coupons put out by the Wm. Wrigley Jr., Company) in years when conditions were more stable.

It still remains to be explained how the Wm. Wrigley Jr., Company has determined the proportion applicable to Doublemint both of the amounts paid for the redemption of United Profit-Sharing Coupons and also of the contingent liability for unredeemed coupons.

In the first place, the total number of boxes of gum (of all brands) shipped with United Profit-Sharing Coupons has been ascertained by dividing the number of No. 1 Coupons issued by twenty, on the theory that each No. 1 coupon issued represents one package of gum. The system of accounting for unissued coupons in the factory is good, and is as detailed as is practicable. Consequently, the method just described of ascertaining the total number of boxes of gum shipped with United Profit-Sharing Coupons should closely approximate accuracy.

For the purpose of ascertaining the number of boxes of Doublemint shipped with United Profit-Sharing Coupons, the following items have been aggregated:

Sales in U. S. A. at list prices.

Sales in U. S. A. at less than list prices.

Advertising Sampling Campaigns—Brooklyn and Chicago.

Given away as Donations—Brooklyn and Chicago.

Shipped on War Tax Rebate Certificates—Brooklyn and Chicago.

Returns to Factory—Brooklyn and Chicago.

806 Some gum (even of the brands which are normally sold with United Profit-Sharing Coupons) is sold in the U. S. A. which is not wrapped in United Profit-Sharing Coupons; but this remark applies practically only to gum sold in Wisconsin because since January 1, 1918, it has been illegal to sell gum with United Profit-Sharing Coupons in that State. On the other hand it is stated by Mr. Stanley that some gum included under the caption "Foreign Sales" is and always has been wrapped in United Profit-Sharing Coupons. The Wm. Wrigley Jr., Company has assumed that the Doublemint sold in the continental U. S. A. not wrapped in United Profit-Sharing Coupons is offset by Doublemint sold in places such as Alaska and Hawaii, sales in such countries or states being included under the heading "Foreign Sales." In other words,

all sales in continental U. S. A. have been treated as though all the gum had been wrapped in United Profit-Sharing Coupons, while no foreign sales have been included with the Doublemint with which United Profit-Sharing Coupons were shipped. Mr. Stanley states that more gum is sold abroad with United Profit-Sharing Coupons than is sold in the continental U. S. A. without coupons.

In the advertising Sampling Campaigns single sticks were given away, as well as whole packages. It is not likely that any United Profit-Sharing Coupons were used in connection with the Doublemint given away in single sticks. By treating all advertising Doublemint as having been wrapped in United Profit-Sharing Coupons, therefore, the Wm. Wrigley Jr., Company would appear slightly to have increased the percentage of the charge for United Profit-Sharing Coupons applicable to Doublemint. This increase, however, would be so small as to be negligible.

807 It has been assumed by the Wm. Wrigley Jr., Company that the United Profit-Sharing Coupons on all Doublemint returned to the factory were used, although some must have been destroyed. On the other hand, the factory, in making the monthly reports of coupons issued, deducts from the issues the returns to the kettle. Consequently, the Doublemint returns wrapped in coupons should be deducted from the Doublemint issues for the purposes of this accounting.

In apportioning the charge for United Profit-Sharing Coupons as between Doublemint and other gum, both in respect of redemptions and contingent liability, the Wm. Wrigley Jr., Company has used the ratio between the number of boxes of Doublemint and the total number of boxes shipped with United Profit-Sharing Coupons in each period. When these two elements, together making the charge in respect of United Profit-Sharing coupons in the Doublemint accounting, are viewed as one charge, it is seen that they amount to 50% of the redeemable value of the coupons. But, as has been pointed out, there is no relation between issues and redemptions in the same period. Consequently, it does not appear logical to apportion redemptions for any period on the basis of the issues for that period. It would seem to be clearer to recognize the fact that the redemptions and the contingent liability cannot be separated; if once the percentage of the issues that will ultimately be redeemed is established, the charge in the Doublemint accounting can be made on that basis, and there will be no necessity of making a separate calculation in respect

of the redemptions, because the percentage will necessarily absorb the redemptions. This subject is dealt with here for the purpose of pointing out that if it is decided to apportion the United Profit-Sharing redemptions separately, the
808 same fundamental difficulty of the relationship between redemptions and sisues which arises when the contingent liability is being considered, will have to be faced.

Attention is directed to the fact that No. 25 coupons are included with the charged for United Profit-Sharing Coupons, which has been apportioned on the basis of the ratio between the number of boxes of Doublemint and the total boxes shipped with United Profit-Sharing Coupons. For some time, United Profit-Sharing Coupons were not shipped except with the "standard" brands. No. 25 coupons were given to salesmen as a sort of commission on the sales of all brands. Insofar as No. 25 coupons are concerned, therefore, the basis of apportionment used by the Wm. Wrigley Jr., Company does not seem quite to fit the case, but at the same time, from the information now available—i.e. without analyzing the sales, etc., no method of apportionment can be suggested. In fact, the percentage of the sales of the "off" brands has been so small that the point raised is insignificant, especially in view of the fact that most of the "off" brands were for some time during the accounting period shipped with United Profit-Sharing Coupons.

Until the end of 1916 the Wm. Wrigley Jr., Company did not set aside on the books, any reserve for the redemption of United Profit-Sharing Coupons. When the books were closed at the end of 1916 a reserve of $475,300.70 was set up. The books do not clearly show the basis on which this reserve was established, and no enquiries were made into the subject, as it developed that the Wm. Wrigley Jr., Company did not adopt a definite policy until the end of 1918. A reserve was set up at the end of 1917 on the following basis: The amount of the redemptions for 1917 was taken; to that figure was
809 added a percentage, being the percentage by which the redemptions for 1917 exceeded the reserve set up at the end of 1916; and finally there was added to the difference between the reserve set up at the end of 1916 and the redemptions during 1917. It can hardly be said that the reserve at the end of 1917 was established on any scientific basis. At at the end of 1918 a reserve was set up in an amount equal to 60% of the redeemable value of the coupons issued to date, less the total amount actually paid for redeemed cou-

pons to date; in other words, the reserve was established on the theory that 60% of the coupons issued would be redeemed. The method of establishing the reserve was logical, and the reserve therefore is logical provided the basic figure of 60% can be supported. The reason for the change in policy as regards the reserves for the redemption of United Profit-Sharing Coupons is that in 1918 for the first time was any reserve of that nature deductible as an expense under the Federal Income Tax laws.

810 Premiums

Profit or Loss on Merchandise sold with Doublemint

It has been the practice of the Wm. Wrigley Jr., Company to stimulate the sales of its gum by offering the retailer "drop shipment premium offers" which consist of certain articles of merchandise and a definite quantity of gum for a stated price. For example, the 9th edition of "Wrigley's Red Book Catalog" contains offer #1163, consisting of 12 boxes of gum and percolator for $10.00. One feature of these premium offers seems to be that when the retailer has sold his gum for $1.00 a box he will have received more than he paid for the gum and the merchandise.

The retailer purchasing these drop shipment premium offers can choose what brands of gum—whether standard or "off brands"—he will take with the merchandise.

In order to ascertain the profit or loss on merchandise sold with gum accurately, it would be necessary to analyze Wrigley's sales sheets, and the task would be terrific; and even if this were done, the problem would not be entirely solved. There are only two definite factors; the selling price of the offer is known, and the cost of the merchandise shipped with the gum is known. The quantity of gum shipped with each offer would be found by reference to the sales sheets, as would also the quantity of each brand of gum shipped. But the difficulty would then arise of placing a value on the gum shipped with the merchandise. As previously stated, the customer has an absolute choice of what brands of gum he shall take; in other words, for the purposes of these premium offers, "standard" and "off" brands have the same selling value. Generally speaking, the selling price
811 of the "off" brands is about 8 cents a box less than that of the "standard" brands. Thus if the gum shipped

on premium offers were priced at the normal selling prices for each brand, and from the selling price of the premium offer the value of the gum arrived at in this manner were deducted, the residue would of course be the amount received for the article of merchandise; but this residue would vary even with the same article of merchandise because different customers would take different gum assortments. Thus, if it were attempted to ascertain the profit or loss on merchandise shipped with gum in this manner, the profit or loss on any offer would vary.

This outline will serve to illustrate the difficulty of ascertaining the profit or loss on merchandise sold with Doublemint. In the first place, the only accurate method of ascertaining the number and selling value of the premium offers shipped, together with the number of boxes of the various brands of gum shipped therewith, is impracticable. The method referred to is that of analyzing the sales sheets, and by the term "Impracticable" is meant that the cost of making such an analysis would be enormous, while the length of time required would necessarily be great.

As a substitute for this method the Wm. Wrigley Jr., Company has adopted a plan which will now be explained. A stock record of the merchandise sold with the most popular premium offers is kept; this stock record has each year been kept in a more complete form. The stock record itself shows the receipts and shipments of merchandise each day, but the shipments are totaled monthly and transferred to a summary book which shows the number of each premium (of which a record is kept) shipped each month; this book is then totaled at the end of the year. The original stock records prior to November 1917, had been destroyed and were
812 not available for inspection, but a test was made by comparing—not entirely, but at random—the stock records from November 1917, to September 1918, with the summary book referred to, from which it appeared that the monthly totals of shipments were transferred from the stock record to the summary book very carefully. It was found that the summary book contains a record of shipments of certain "special" premiums, which had been obtained from the sales sheets daily. It would not have been possible to have checked these figures without checking the sales sheets.

The summary book, then, shows the shipments each month of all premiums of which a record has been kept. Proceeding on the theory that every premium (or article of merchandise)

shipped represents a premium offer shipped, the Wm. Wrigley Jr., Company has built up the following information:

(a) The number of boxes of gum shipped on each offer, and the price of the offer. This information has been obtained from the premium offer catalogs; the list price of the offer is subject to a discount of 15%, as all premium offers, no matter to whom shipped, are billed to jobbers at list price less 15% and the sales are entered on the books at this net figure.

(b) The number of each offer shipped has been obtained from the summary book referred to (as it has been assumed that each article of merchandise shipped represents the corresponding premium offer shipped).

(c) Consequently, by multiplying the net price of each offer by the number of offers shipped, the total selling value of all premium offers (of which a record has been kept) has been obtained, and similarly by multiplying the number of boxes of gum included with each offer by the number of offers shipped the aggregate number of boxes of gum shipped with premium offers has been obtained, but, of course, without distinguishing in any way between brands.

813 (d) The purchasing agent for the premiums has kept a record of the prices paid for the various articles of merchandise, the cost including the freight. From this record, by multiplying each unit cost by the number of articles shipped, the aggregate cost of the merchandise shipped with premium offers has been ascertained.

It will be well to digress here to criticize the procedure outlined above from an accounting point of view. In the first place, the stock records and summary book referred to above can only be verified by checking from the sales sheets; in view of the probable expense, this has not been done. From my point of view, therefore, these records are unsupported; this statement must not be construed as casting any reflection on the authenticity of these records. Furthermore, the Wm. Wrigley Jr. Company has assumed that all shipments represented shipments of premium offers to customers, whereas it is quite possible that in those shipments may be included returns to factory and merchandise shipped to customers for which no bill was rendered—as, for instance, in the case of an exchange of defective merchandise. Employees of the Company admit this possibility, but state that every effort is made to eliminate such items from the summary book, and in that event such cases would not be frequent and the quantities involved comparatively trivial. The shipments shown

by the summary book were checked to the working papers from which Wrigley's figures in respect of profit or loss on merchandise sold with Doublemint in the account filed before the Master were built up, and clerical errors were corrected.

All the red book catalogs were checked to Wrigley's working papers for the purpose of verifying that the list prices (less discount) and the number of boxes of gum shipped with each premium offer were correctly stated. Clerical errors were corrected. All extensions and additions on Wrigley's working papers were proved.

814 A test was made by comparing some of the costs of merchandise shown by the purchasing agent's record with those used on Wrigley's working papers. Due to the fact that in some cases the record referred to shows changes in prices without giving the date when those changes went into effect, and to the fact that changes in prices were made during the various periods covered by Wrigley's working papers while no stock records—owing to the fact that they had been destroyed up to November 1917—were available to show how many articles were purchased at the old price and how many at the changed price, it was found that the persons who priced the cost of the offers on the Wrigley working papers had exercised their own judgment in averaging the prices. Consequently the test made, while it showed that the prices were in general in conformity with the range of prices shown by the purchasing agent's record, did not, and could not, prove the absolute accuracy of the figures used.

Reverting now to the method employed by the Wm. Wrigley Jr., Company to ascertain the profit or loss on merchandise sold with Doublemint, the information available from Wrigley's records may be summarized thus: (a) The total selling values (b) the total number of boxes shipped, and (c) the cost of merchandise shipped, divided into periods, either to correspond with the periods in the Doublemint accounting, or with changes in prices of offers. This information is not available in respect of all premium offers shipped, but only in respect of those premium offers with which were shipped articles of merchandise of which a perpetual inventory was kept.

In order to ascertain the profit or loss on the merchandise it is necessary, knowing the cost, to determine what was received for the merchandise. It is obvious that the total receipts were in respect of both gum and merchandise; if

the selling value of the gum is deducted therefrom the
815 residue will be the portion of the receipts attributable to merchandise. The problem then is to find the selling value of the gum. Two facts are pertinent here: (1) the customer can take his choice of gum, whether "standard" or "off" brands—in other words, the "standard" and "off" brands are given an equal value, and (2) all Doublemint sold, whether with premium offers or otherwise, has been accounted for before the Master at the prices prevailing for the "standard" brands. This leaves no alternative; all gum, for the present purpose, must be priced at the prevailing "standard" brand prices. The Wm. Wrigley Jr., Company has taken this view, and prepared its statements accordingly.

If the number of boxes of each brand of gum sold with premiums were known, it would not matter what method was adopted of finding the profit or loss on merchandise, provided all brands of gum were valued on the same basis; the profit or loss would be prorated over the brands of gum on the basis of boxes sold, and if a lower price per box were used the profit on merchandise would be pro tanto increased, while the proportion of the increased profit apportionable to any particular brand would exactly be offset by the reduction in the sales value of that particular brand sold with merchandise.

But in the present case the matter is not so simple. The exact quantities of gum, whether of Doublemint or of any other brand, sold with merchandise are not known. By valuing—as the Wm. Wrigley Jr., Company has done all gum sold with premiums at the prices prevailing for the "standard" brands, it has left the smallest possible margin of the aggregate net selling prices of the premium offers as the sales value of the merchandise. In other words, the figures shown by Wrigley's as the loss on merchandise is the greatest
816 that could have been obtained by any reasonable method of calculation; these remarks, however, apply only to the premium offers which have been taken into consideration in ascertaining the profit or loss on merchandise. The justification for the method is the assumption that Doublemint was sold with premium offers in substantially the same proportion relatively to other brands as it was sold taking premium offers and other sales together. If, as a matter of fact, the proportion of Doublemint sold with the premium offers was much lower than the proportion borne by Doublemint to all sales, then in the Doublemint accounting Doublemint would

be overcharged with the loss on merchandise, because the proportion of profit or loss on merchandise sold with gum credited or charged in the Doublemint accounting is based on the ratio of Doublemint sales to all sales (and, of course, the contrary is true.

There are no records extant which show the shipment of merchandise prior to 1915. Therefore for the period from July 28 to December 31, 1914, no portion of the profit or loss on merchandise sold with gum has been taken into consideration in the Doublemint accounting, but any Doublemint sold with such merchandise has been included with the sales at the standard price.

The following table is presented for the purpose of showing how the Wm. Wrigley Jr., Company ascertained the profit or loss on merchandise sold with Doublemint in the accounts filed before the Master:

STATEMENT SHOWING METHOD OF ASCERTAINING PROFIT OR LOSS ON MERCHANDISE SOLD WITH DOUBLEMINT GUM ADOPTED BY WM. WRIGLEY JR., COMPANY

Method of Ascertaining Profit or Loss on Merchandise Sold with Doublemint Gum

Period and Factory	(1) Total Receipts from Gum and Merchandise Combination Sales	(2) Portion of Receipts Attributable to Gum Sales All Gum is Priced at Standard Prices for Leading Brands		(3)	(4) Portion of Receipts Attributable to Merchandise Sales (Col. 1-Col. 3)	(5) Cost of Merchandise Sold in Combination Sales	(6) Profit or *Loss* on Merchandise Sold	(7) Proportion of Profit or *Loss* on Merchandise Sold Applicable to Doublemint-Percentage used is Doublemint Sales to Total Sales	(8)
	Amount	Number of Boxes	Price Used Cents	Amount				Percentage Used	Amount
January 1, to December 31, 1915:									
Toronto	$ 112,701.46	73,848	48	$					
		85,262	52	79,783.28	32,918.18	33,695.15	*776.97*		
Gum shipped in lieu of Prepaid Freight:									
8,632 boxes @ 48c									
10,851 boxes @ 52c									
Brooklyn and Chicago	1,083,529.03	1,649,774	52	857,882.48	225,646.55	332,529.26	*9,785.88*	18.7	*1,975.09*
							106,882.71	18.7	*19,987.07*
Brooklyn and Chicago									
January 2, to September 30, 1916	996,283.74	1,467,879	52	763,297.08	232,986.66	309,270.78	*76,284.12*	16.4	*12,510.60*
October 1, to December 31, 1916	812,715.61	1,208,409	52	628,372.68	184,342.93	226,728.15	*42,385.22*	16.4	*6,951.18*
January 2, to April 30, 1917	914,259.72	1,334,361	52	693,867.72	220,392.00	291,799.02	*71,407.02*	15.0	*10,711.05*
May 1, to October 31, 1917	1,328,584.52	1,827,269	52	950,179.88	378,404.64	337,799.05	40,605.59	15.0	6,090.84
November 1, to December 31, 1917	626,923.92	886,307	55	487,468.85	139,455.07	145,378.72	*5,923.65*	15.0	*888.55*
January 2, to August 24, 1918	1,197,344.80	1,600,380	55	880,209.00	317,135.80	270,139.53	46,996.27	15.0	7,049.44
August 26, to October 4, 1918	166,252.62	225,282	55	123,905.10	42,347.52	34,132.27	8,215.25	20.9	1,716.99
Total	$7,238,595.42	10,358,771		5,464,966.07	1,773,629.35	1,981,471.93	*217,628.46*		*38,166.27*

Summary of Profit or *Loss* on Merchandise Applicable to Doublemint Gum by Periods as in the Doublemint Accounts

January 1, to December 31, 1915	$ *21,962.16*
January 1, to December 31, 1916	*19,461.78*
January 1, to December 31, 1917	*5,508.76*
January 1, to August 24, 1918	7,049.44
August 26, to October 4, 1918	1,716.99
Total	$ 38,166.27

817 It is desired to point out here that the figures for 1915 in respect to Toronto have not been checked. It was felt that the relative insignificance of the items did not warrant the expenditure of time which would have been necessary to check the figures, as the work would have involved the scrutiny of all the Canadian sales sheets for that year, inasmuch as the Canadian premiums were not carried on the Chicago stock records.

It will be noted that gum shipped from Toronto in lieu of prepaid freight has been valued at the standard price per box and added to the loss on merchandise. Premium offers are shipped freight prepaid, except to far western points, when they are shipped collect, extra gum being included, to reimburse the customer. It was pointed out in the comment on "Sales" that all Doublemint shipped in lieu of freight had been included as sales at the standard price as the number of boxes so shipped could not be determined without a great deal of labor. For this reason, the free gum shipped from Toronto in lieu of freight (which was ascertained solely because the Canadian sales sheets had to be scrutinized to segregate the premium offers) has been valued at the standard price, Doublemint's proportion of the extra loss thereby ascertained offsetting, theoretically, the Doublemint included as sales but which was, in reality, shipped in lieu of freight.

Certain clerical errors were found in Wrigley's working papers, which were corrected under my supervision. Furthermore, it was found that although during the period from January 1, 1915 to September 11, 1916 the Wm. Wrigley Jr., Company had charged the customer, in addition to the listed price of the premium offer, four cents a box on all gum
818 sold with the offer, to cover the proprietary revenue stamp which, at that time, had to be placed on every box of gum, yet it had not taken this four cents a box recovery into account in ascertaining the profit or loss on the merchandise, under a mistaken idea that this recovery was taken care of elsewhere.

The Wm. Wrigley Jr., Company, has apportioned to Doublemint a proportion of the profit or loss on merchandise based on the ratio of Doublemint sales to all sales, (including merchandise) of, theoretically, the Wm. Wrigley Jr., Company has ascertained the merchandise sales, and, by using the figures has obtained the profit or loss on the merchandise, then it is obvious that the profit or loss should be apportioned between the brands of gum in the ratio borne by the sales

of each brand to the total sales after eliminating the merchandise sales. Consequently Doublemint's proportion of the profit or loss on merchandise should be based on the ratio borne by the Doublemint sales to the total sales, after excluding merchandise sales. The following statement shows the method of ascertaining Doublemint's proportion of profit or loss on merchandise, based on the theory of apportionment just stated. All errors noted have been corrected in this statement:

STATEMENT OF PROFIT OR *LOSS* ON MERCHANDISE SOLD WITH GUM AND THE PROPORTION THEREOF APPLICABLE TO DOUBLEMINT

Part One — Method of Ascertaining Profit or *Loss* on Merchandise Sold with Gum

Period	1 Total Receipts from Gum and Merchandise Combination Sales	2 Portion of Receipts Attributable to Gum Sales All Gum is priced at Standard Prices for Leading Brands			3 Portion of Receipts Attributable to Merchandise Sales (Total Receipts less Gum Receipts)	4 Cost of Merchandise Sold in Combination Sales	5 Profit of *Loss* on Merchandise Sold
	Amount	Number of Boxes	Price Used Cents	Amount	Amount	Amount	Amount
Toronto:							
Jan. 1, to Dec. 31, 1915	$ 112,701.46	73,848	48	$ 79,783.28	32,918.18	33,695.15	*776.97*
		85,262	52				
Gum shipped in lieu of Prepaid Freight:							
8,632 boxes @ 48c							
10,851 boxes @ 52c							
Brooklyn and Chicago:							
Jan. 1, to Dec. 31, 1915	1,177,962.69	1,649,774	52	857,882.48	320,080.21	332,520.26	*12,449.05*
Jan. 1, to Sept. 30, 1916	1,047,179.14	1,463,326	52	760,929.52	286,249.62	308,643.48	*22,393.86*
Oct. 1, to Dec. 31, 1916	812,375.61	1,208,899	52	628,627.48	183,748.13	226,615.65	*42,867.52*
Jan. 1, to Apr. 30, 1917	913,367.22	1,333,101	52	693,212.52	220,154.70	291,494.52	*71,339.82*
May 1, to Oct. 31, 1917	1,329,987.02	1,829,069	52	951,115.88	378,871.14	342,028.25	36,842.89
Nov. 1, to Dec. 31, 1917	626,787.22	886,107	55	487,358.85	139,428.37	145,352.12	*5,923.75*
Jan. 1, to Aug. 24, 1918	1,210,114.88	1,618,354	55	890,094.70	320,020.18	272,739.77	47,280.41
Aug. 25, to Oct. 4, 1918	167,406.92	226,862	55	124,774.10	42,632.82	34,410.09	8,222.73
Total	$7,397,882.16	10,374,602	—	$5,473,778.81	1,924,103.35	1,987,508.29	*73,190.82*

STATEMENT OF PROFIT OR *LOSS* ON MERCHANDISE SOLD WITH GUM AND THE PROPORTION THEREOF APPLICABLE TO DOUBLEMINT, Continued

Part Two

Statement showing Method of Ascertaining Proportion of Profit or *Loss* on Merchandise sold with Gum applicable to Doublemint

Period	Total Sales	Merchandise Sales per Col. 3, Part 1 of this Statement	Sales, less Merchandise Sales	Doublemint Sales	Percentage of Doublemint Sales to Total Sales less Merchandise Sales	Profit or *Loss* on Merchandise Sold per Col. 5 Part 1 of this Statement	Proportion of Profit or *Loss* on Merchandise Sold Applicable to Doublemint based on Percentages Ascertained in this Statement
Jan. 1, to Dec. 31, 1915	$ 9,717,145.33	352,998.39	9,364,146.94	1,816,332.08	19.39666%	*23,011.90*	*4,463.54*
Jan. 1, to Dec. 31, 1916	12,482,342.87	469,997.75	12,012,345.12	2,049,964.85	17.06548%	*65,261.38*	*11,137.17*
Jan. 1, to Dec. 31, 1917	15,713,657.84	738,454.21	14,975,203.63	2,348,003.49	15.67928%	*40,420.68*	*6,337.67*
Jan. 1, to Aug. 24, 1918	11,891,741.55	320,020.18	11,571,721.37	1,772,376.02	15.31644%	47,280.41	7,241.68
Aug. 25, to Oct. 4, 1918	1,596,604.37	42,632.82	1,553,971.55	316,269.31	20.35232%	8,222.73	1,673.52
Total	$ 51,401,491.96	1,924,103.35	49,477,388.01	8,302,945.75		*73,190.82*	*13,023.18*

Part Three

Comparison of Cost of Merchandise used in this Statement with Expenditures per General Ledger

Period	Merchandise Cost per General Ledger	Merchandise Cost per this Statement	Cost of Merchandise Not Accounted for in this Statement
January 1, to December 31, 1915	$ 479,946.60	366,224.41	113,722.19
January 1, to December 31, 1916	617,394.90	535,259.13	82,135.77
January 1, to December 31, 1917	811,148.72	778,874.89	32,273.83
Total	$1,908,490.22	1,680,358.43	228,131.79

821 It might be that a better basis of apportionment of the profit or loss on merchandise would be the ratio between Doublemint production, in boxes, and the total production, in boxes. This is speculation, but it might easily accord more nearly with the actual facts than the basis adopted in the foregoing statement, the chief objection to which is that it is predicted on total sales, with which are included sales which are not gum sales. I would however, reject the production basis for present purposes because of the large donations, etc., which are made of the "standard" brands, comparatively few of the "off" brands being made. It is contended by the Wm. Wrigley Jr., Company that the major portion of the production of the "off" brands is sold with the premium offers.

In part three of the foregoing statement, it will be seen that there is a comparison made between the cost of merchandise used by the Wm. Wrigley Jr., Company in ascertaining the profit or loss on merchandise and the actual cost, as shown by the general ledger, of the merchandise distributed during the periods referred to (which are the years 1915, 1916 and 1917 only, as the periods in 1918 are not full years and therefore there is no basis for comparison). The cost of merchandise as shown by the general ledger includes freight inwards on the premiums.

It will be observed that during the years 1915, 1916, and 1917, merchandise, the cost of which aggregated $228,131.79, was not taken into account in determining the profit or loss on merchandise. It will further be observed that the difference was materially reduced each year; perhaps the fact that the stock records in regard to premiums were kept in respect of more articles each year has an important bearing on the matter. On the other hand, "Merchandise Account" in the general ledger is charged with the cost of glass jars in
822 addition to the cost of premiums. The glass jars referred to constitute the only practicable container for gum for shipment to some territories. Again, these jars are used as display jars; chewing gum is placed therein on the retailer's counter, a better display thereby being obtained. These jars are usually sold, but, they are sometimes given away; in the earlier years, I am informed, the practice of giving away jars was more common than it has been of late. But when the jars were sold, there was a substantial loss—probably a minimum of ten cents each. No portion of this loss, either on jars sold, or on jars given away, has been

charged in the Doublemint accounting; the loss cannot be determined without analyzing the sales sheets and the "Merchandise Account."

Thus, a considerable part of the difference in part three of the statement just presented, may be due to the fact that the glass jars are charged to the "Merchandise Account" and have not been taken into consideration in ascertaining the profit or loss on merchandise.

In thus drawing attention, in part three of the statement just presented, to the discrepancy between the cost of merchandise as shown by the general ledger and the cost of merchandise used in ascertaining the profit or loss on merchandise sold with gum, it is not intended to imply that any direct proportion of the difference of $228,131.79 is chargeable in the Doublemint accounting, for of course there will be sales of merchandise partly offsetting this item—indeed as far as present proof goes, the sales might exceed that figure, giving a resulting profit. But, taking into account the facts in connection with the glass jars, and the fact that in 1915, 1916 and 1917, the figures show losses on merchandise sold with gum, it must be admitted that in all probability there is a loss concealed in these differences, a portion of which would be chargeable in the Doublemint accounting.

823 Loss by Fire at Belize, August 17, 1918.

On the adjustment statement filed by the Wm. Wrigley Jr., Company on March 6, 1919, item ±34 reads: Loss by fire at Belize, August 17, 1918, $11,202.57 x 15.1778%, $1,700.30. Inasmuch as no chicle obtained at Belize during the period from August 25, to October 4, 1918 would be used during the accounting period, and furthermore since August 24, 1918, the only reason for any accounting at all by the Wm. Wrigley Jr., Company was that the first change in the color scheme of the Doublemint did not meet the requirements of the case, it would seem that any charge of this nature is inadmissible.

In any event, the loss written off on the Company's books, through "Accounts Closed Out" was $13,284.58 and not $11,202.57.

824 Interest on Invested Capital

The Wm. Wrigley Jr., Company has charged in the Doublemint accounting a proportion (based on production in boxes of Doublemint and of all gum) of interest on invested capital.

The criticism which follows is based upon the assumption that a charge in this accounting in respect of interest on invested capital is legally admissible.

Such an assumption having been made, there are three things to be determined: (1) the rate at which the interest on invested capital shall be computed; (2) the manner in which the amount of invested capital shall be determined; and (3) the manner in which the interest on invested capital shall be apportioned as between Doublemint and other gum.

The Wm. Wrigley Jr., Company has computed the interest on invested capital at the rate of 7% per annum. The fairness of this rate will have to be passed upon by the Court. It should, however, be pointed out that the Wm. Wrigley Jr., Company frequently loaned money to various concerns, either because of the close relationship between such companies and the Wm. Wrigley Jr., Company (as in the case of the Canadian Company), or for the purpose of ensuring that companies on whom the Wm. Wrigley Jr., Company depended for material supplies, etc., should have sufficient working capital, or merely as an investment of surplus funds. In no case, however, was so high a rate charged as 7%, the highest being 6%.

In ascertaining the amount of invested capital, the Wm. Wrigley Jr., Company has taken the tangible assets less the liquid liabilities and the reserve for depreciation at the beginning of a period and a figure similarly ascertained at the end of the period, totaled the two amounts and 825 divided by two, in this way purporting to ascertain the average invested capital for the period. There is no scientific reason for such a method. In the first place all investments in or advances to other companies, for any of the reasons given, have been excluded from invested capital on the ground that the Wm. Wrigley Jr., Company did not desire to disclose such relationships in these proceedings, but even this principle has not been consistently followed out. For instance, the stock in Wrigley's Limited, of London, England, carried on the books at $9,000.00 was included in the computation of invested capital as at December 31, 1914, and also as at December 31, 1915, but thereafter it was excluded. As at the end of 1915, machinery and equipment shipped to Australia for the purpose of equipping a factory there was included as invested capital; materials shipped to Australia for the purpose of making gum were excluded.

All investments have been excluded from invested capital.

Notes receivable fall under this caption, but there are some notes carried under "Notes Receivable" which were obtained in the ordinary course of business. Liberty Bonds have, however, been included as invested capital, but Treasury Warrants purchased to provide ready funds for the payment of taxes have been excluded. Some real estate and buildings, being the old factory of the company, have been excluded at a valuation of $200,000.00, which is only approximate; furthermore, this value was not changed throughout the period, although on the books of the company it is shown that additions were made to these buildings.

Another error which has been committed is this: In the Doublemint accounting charges have been made in respect of revenues for contingent liability on United Profit Sharing Coupons, but no credit for interest on these amounts,
826 notwithstanding the fact that the Wm. Wrigley Jr., Company, by its method of computing interest on invested capital, has necessarily charged interest on assets arising in part from the accumulation of these reserves, has been allowed. In other words, the reserves for contingent liability in respect of United Profit Sharing Coupons have never been spent, and therefore, no cash has been taken out of the business in respect thereof. Consequently charges have been made in the Doublemint accounting which do not represent actual expenditures. Any change, therefore, made against Doublemint in respect of interest on invested capital must take into account this fact, and credit must be allowed for interest on the working capital provided by the charging in the Doublemint accounting of reserves not representing actual expenditures to the end of the accounting period. By parity of reasoning credit for interest on the income and excess profits taxes charged against Doublemint should be allowed until the dates on which those taxes were actually paid.

From what has been said, therefore, it will be obvious that it is not feasible to compute an accurate charge for interest on invested capital until the charges in respect of United Profit Sharing Coupons and Income and Excess Profits Taxes are determined. But it is feasible to outline a method of determining the invested capital.

In the first place, it should be noted that the item of Goodwill standing on the books after the arbitrary segregation of Patents and Patent Rights and Goodwill had been made, at $6,000,000.00 has not been considered as invested capital by the Wm. Wrigley Jr. Company. As Doublemint was a new

product at July 28, 1914, this exclusion would appear to be logical, although it could be argued that the Goodwill of the Wm. Wrigley Jr. Company resulted immediately in better sales of Doublemint than would have been secured by an entirely new organization.

827 The invested capital at July 28, 1914 was the capital and the surplus of the Wm. Wrigley Jr., Company, less $7,500,000.00 of which $6,000,000.00 is the book valuation of the Goodwill just referred to, and $1,500,000.00 (less accrued depreciation) the book value of the Patents and Patent Rights, interest on which is charged in the Doublemint accounting separately. As no capital stock was sold during the accounting period, this invested capital could only be increased by profits earned and not distributed in dividends. As already mentioned, the Wm. Wrigley Jr., Company excluded from invested capital investments made and advances to various companies. If the Wm. Wrigley Jr. Company was within its rights in making these exclusions, then the invested capital should be reduced every time such an investment or advance was made—not haphazardly but on the date on which the change was made. In any event, it would not seem to be just to charge Doublemint with any interest on capital, which, by its very investment (as distinct from being loaned to assure raw material, etc. supplies) was proved to be unnecessary to the conduct of the gum business; investments in Liberty Bonds would however, seem to deserve special consideration, as such investments can be distinguished from ordinary investments. Furthermore, investments in and advanced to manufacturing companies such as the Canadian and Australian companies could not be considered as invested capital if the operations of those companies do not come within the scope of the present accounting. But investments in selling companies such as the English and Japanese companies, sales to which are included in the Doublemint accounting, would appear to come clearly within the term "invested capital"; and, for that matter, so would investments in and advances to companies upon which the Wm. Wrigley Jr., Company was dependent for supplies of materials, etc. If investments are excluded from invested

828 capital on the ground that the money was thus proved to be unnecessary for the conduct of the gum business, does it not also raise the question, in view of the large cash balances carried by the Wm. Wrigley Jr., Company, whether

or not the whole of this cash was necessary for the conduct of the gum business?

Subject to the questions raised, then, the invested capital is the capital and surplus of the Wm. Wrigley Jr., Company as at July 28, 1914, less the book value of the Patents and Goodwill at that date, plus the periodic additions in respect of undistributed profits, and less the transfers of capital to properly excluded items. It is of course necessary in determining the invested capital to compute the profits on the whole business on the same basis as that on which the Doublemint profit or loss is determined, with particular reference to the reserves for contingent liability in respect of United Profit Sharing Coupons.

The invested capital for the whole business having thus been determined, it remains to be considered what the capital invested in Doublemint is. It is clear that Doublemint takes its pro rats share of the invested capital ascertained according to the method outlined, which is the capital necessary to run the business. The question arises however: Do the losses on Doublemint represent capital invested solely in Doublemint? That is to say, the Doublemint business certainly needed its pro rata share of the capital invested in the whole business necessary for running the business; but if it is proved that in, say the first year of Doublemint operations there was a loss incurred, that loss certainly represents capital sunk in the Doublemint enterprise; is it not true, therefore, that in the second year the investment in the Doublemint enterprise is he pro rata proportion of the capital necessary to run the whole business plus the capital
829 sunk (that is, the loss sustained) during the first year's operations?

The last question is to be decided is the proportions in which the interest on invested capital shall be divided between Doublemint and other gum. There are three possible bases: (1) The proportion of Doublemint manufactured to all gum manufactured; (2) the proportion of Doublemint sales to all sales; and (3) the proportion of the number of boxes of Doublemint delivered by the factories to the shipping department to the total number of boxes so delivered —this last basis being, practically speaking, the sales basis calculated in boxes rather than values. Inasmuch as the need for invested capital arises more from the manufacture of the gum rather than from the merchandising thereof, it is submitted that the production basis is the logical one.

Offsetting the charge for interest on invested capital there is of course to be taken into consideration the income derived from the employment of such capital, apart from its employment in the actual gum business. Examples of such income are to be found in rents received from tenants of parts of the factory buildings, and interest on Liberty Bonds.

It is necessary that the questions raised be settled before an accountant can compute Doublemint's proportion of interest on invested capital.

The fifth article of the instructions to the accountant filed with the Master December 10, 1918, by counsel for the L. P. Larson, Jr., Company reads: "The accountants are requested to ascertain what, if any, additions were made to the capital, factory capacity, number of employees or office force by reason of the manufacture of the Doublemint 830 brand of gum." To get this information will necessarily involve the examination of the records prior to the accounting period, and presumably the question can only be answered by stating on the one hand the annual production of gum compared with the investment, office and factory force, before the introduction of Doublemint, and on the other hand the like information for the periods after the introduction of Doublemint, the increases in investment, office and factory force being occasioned by Doublemint in the proportion which the Doublemint manufactured bears to the total increase over the highest annual production prior to the introduction of Doublemint. Furthermore, the fact that Doublemint was introduced during the middle of 1914, causes a complication, unless a monthly production standard is used —which might not be fair as some months may, in the normal course of business, run heavier than others. Again, it would seem to be quite possible for the introduction of Doublemint to cause an increase in the factory or office force without it being necessary to increase the factory capacity—but no accountant could determine the factory capacity. It is requested that counsel for the L. P. Larson Jr., Company elaborate the instructions to ensure that the information obtained shall be the information called for.

831 Depreciation of Patents and Patent Rights

Proportion of Interest on Capital Invested in Patent Rights

On the formation of the Wm. Wrigley Jr., Company, which commenced business as at January 1, 1911, the Zeno Manufacturing Company, or the stockholders thereof, were allotted common stock of the Wm. Wrigley Jr., Company of a par value of $2,500,000.00 in consideration of the sale of the patents, patent rights, trade secrets, goodwill, etc., of the Zeno Manufacturing Company. The patents and patent rights covered certain vending machines and certain machinery used in the manufacture of chewing gum. The value of the patents and patent rights in connection with vending machines could not have been of any great value, because the business was limited.

The United States Internal Revenue Department, for Income Tax purposes, has tentatively fixed the value of the patents and patent rights at $1,500,000.00 thus arbitrarily assuming that the goodwill, trade secrets, etc., of the Zeno Manufacturing Company were sold, as at January 1, 1911, for $1,000,000.00. The books of the Zeno Manufacturing Company have not been examined, but viewed retrospectively, having regard to the sales made since the formation of the Wm. Wrigley Jr., Company of the products formerly sold by the Zeno Manufacturing Company, it would seem that the arbitrary division thus made resulted in an undervaluation of the patents and patent rights. At any rate, the Wm. Wrigley Jr., Company has refused to acquiesce in the valuation, and is making an appeal.

However, the Wm. Wrigley Jr., Company has used the valuation of $1,500,000.00 for the patents and patent rights as at January 1, 1911, as a basis for computing the "Depreciation of Patents and Patent Rights" and the "Proportion of Interest on Capital Invested in Patent Rights" charged in the Doublemint accounting.

832 The point arises: Did the payment of $2,500,000.00 to the Zeno Manufacturing Company or its stockholders in common stock constitute a payment of such value as compared with a cash payment of like amount as to be a criterion of

the validity of any charge made in the Doublemint accounting for depreciation of patents and patent rights or for interest on capital invested in patents and patent rights based on the par value of such common stock? That is to say, it would seem to be necessary in the present case to determine the value of the common stock issued to the Zeno Manufacturing Company or its stockholders, as at January 1, 1911, in order to be able to decide the amount of the charges permissible in the Doublemint accounting in respect of "Depreciation of Patents and Patent Rights" and "Interest on Capital Invested in Patent Rights." For the year ended December 31, 1911, the net earnings of the Wm. Wrigley Jr., Company, after providing for Preferred Stock Dividends, were approximately 18% on the Common Stock issued and outstanding; in subsequent years they were greater. The books of the companies which were consolidated to form the Wm. Wrigley Jr. Company have not been examined, and, therefore, their earning capacities are not known.

The charge for "Depreciation of Patents and Patent Rights" made against Doublemint is based upon a yearly charge of 1/17 of $1,500,000.00 or $88,235.29 against the whole business each year. This yearly charge has been prorated as between Doublemint and other gum in the ratio of the production of Doublemint, in boxes, as compared with the total production, in boxes, of all gum. The following table shows the method by which the charge against Doublemint has been ascertained:

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Year	Period in Year	Amount of Depreciation to be Apportioned, based on $88,235.29 for full year	Percentage of Doublemint Production to Total Production (on box basis)	Depreciation Chargeable against Doublemint	Wrigley's Figures
1914	August 1, to December 31	$36,764.70	18.6887%	$ 6,870.84	6,870.84
1915	January 1, to December 31	88,235.29	20.37079%	17,974.23	17,974.23
1916	January 1, to December 31	88,235.29	17.2101%	15,185.38	15,185.38
1917	January 1, to December 31	88,235.29	15.2740%	13,477.06	13,477.06
1918	January 1, to August 24	57,050.76	15.1778%	8,659.05	8,704.91
1918	August 24, to October 4	9,669.62	20.9611%	2,026.86	2,055.01
		Total		$64,193.42	64,267.43

The small differences between these figures and Wrigley's figures are due to the different methods adopted of calculating the depreciation for the broken periods in 1918.

In computing the "Interest on Capital Invested in Patent Rights," the Wm. Wrigley Jr., Company has used as a basis the arbitrary value of $1,500,000.00 as at January 1, 1911, and the rate of 7%. These factors are being passed over without comment at this stage, as the basis of valuation has already been stated, while the rate of interest chargeable will, of course, be the same as that allowed on the capital invested in assets other than patents and patent rights. For the present purposes, both valuation and rate are assumed to be correct. There is an error in the method of calculating the interest on capital invested in patents and patent rights. The interest on capital has been calculated on the assumed value of the patents and patent rights as at January 1, 1911, less depreciation, including the whole of the depreciation charged off during the year for which the interest is being calculated. To make this more clear, a concrete example is submitted. The interest for the year 1915 was calculated on the value of the patents and patent rights less depreciation, including depreciation for the year 1915; in other words, the interest was calculated, for the year 1915, on the depreciated value as at December 31, 1915, instead of on the average depreciated value throughout the year. It would hardly be correct to compute the interest on the depreciated value as at January 1, 1915, because the value lessens day by day by effluxion of time; the average depreciated value for the year, therefore, is the fairest basis. The interest has been ap-
834 portioned as between Doublemint and other gum in the ratio which the Doublemint production (in boxes) bears to the total production (in boxes); this apportionment is fair. The following table shows the proper charges in the Doublemint accounting, assuming that the basic valuation of $1,500,000.00 as at January 1, 1911 is correct and that the rate of 7% is acceptable, using the average depreciated value of the patents and patent rights in each period, and apportioning the interest charge as between Doublemint and other gum on a production basis:

Year	Period of Year	Average Depreciated Value	Interest at 7% p. a. on Average Depreciated Value	Percentage on Doublemint Production (in boxes) to Total Production (in boxes)	Charge against Doublemint in respect of Interest on Capital Invested in Patents and Patent Rights	Wrigley's Figures
		$			$	602.21*)
1914	Aug. 1, to Dec. 31	1,165,441.20	33,992.00	18.6887%	6,352.66	5,650.26)
1915	Jan. 1, to Dec. 31	1,102,941.20	77,205.87	20.37079%	15,727.45	15,098.35
1916	Jan. 1, to Dec. 31	1,014,705.90	71,029.42	17.2101%	12,224.23	11,692.75
1917	Jan. 1, to Dec. 31	926,470.61	64,852.97	15.2740%	9,905.64	9,433.94
						1,893.52**)
1918	Jan. 1, to Aug. 24	853,827.59	38,644.47	15.1778%	5,865.38	3,515.45)
1918	Aug. 26, to Oct. 4	820,346.53	6,450.40	20.9611%	1,352.07	1,294.67
				Total	$51,427.43	49,181.15

*The additional item of $602.21 will be found on the supplemental statement filed by Wm. Wrigley Jr., Company on March 6, 1919, being item number four

**The additional item of $1,893.52 will be found in the same statement being item number thirty-five

Finally, the question arises: If the Wrigley company is entitled to interest on capital invested in patent rights and to depreciation of patent rights on values based on the par value of the stock issued in payment for those rights, it is not by parity of reasoning entitled to interest on capital invested in "Goodwill," payment for which was made in like stock? No such claim has been made by the plaintiff.

835 Income and Excess Profits Taxes

The theory upon which the Wm. Wrigley Jr., Company has proceeded in making the charges in respect of Income and Excess Profits Taxes is stated upon the face of the statements filed: "We have deducted taxes upon assumption that the Doublemint profits were the last; i. e., upon the supposition that the profits do not belong to us; however, if we ignore the profits as though not earned, we were already in the 60% class (or bracket-peak) and the additional earnings from Doublemint would be in that class." It is submitted that the question of whether or not the Wm. Wrigley Jr., Company is entitled to charge any Income and Excess Profits Taxes, or if so, upon what basis, is purely a legal question.

Filed Jan. 7, 1925 John H. R. Jamar, Clerk.

Filed Jan. 7, 1925.

594 And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a certain Burt Statement, in words and figures following to-wit:

595 EXHIBIT BURT STATEMENT

EDWARD R. BURT AND COMPANY
Certified Public Accountants
Appraisers—Industrial Engineers
Ill.

Report on
Chas. H. Aldrich, Esq.

Special Report of the
William Wrigley Jr. Company
From July 28, 1914 to November 12, 1918

* * * 448 * * *

Filed Jan. 7, 1925 John H. R. Jamar, Clerk.

Exhibit

Burt Statement

New York, 1220 Trinity Bldg.
Chicago, 344-352 National Life Bldg.
Boston, 626 Scollay Bldg.
Philadelphia, 702 Pennsylvania Bldg.
St. Louis, 1201 International Life Bldg.
Cleveland, 760 Hippodrome Annex.
Cincinnati, 311 Provident Bank Bldg.
Buffalo, 1129 Marine National Bank Bldg.
Pittsburgh, 607 Commonwealth Bldg.
Omaha, 220 Omaha National Bank Bldg.
Kansas City, 315 Dwight Bldg.
Minneapolis, 943 Andrus Bldg.
Atlanta, 713 Third National Bank Bldg.
Memphis, 51 American Bank Bldg.
Dallas, 407-412 Linz Bldg.
New Orleans, 702 Maison Blanche Bldg.

596 Filed Jan. 7, 1925 John H. R. Jamar, Clerk. Rec'd March 28, 1919. C. B. M., Master.

597 Report By EDWARD R. BURT AND COMPANY, Certified Public Accountants Ill. Certified Public Appraisers Industrial Engineers on Chas. H. Aldrich, Esq.

Chicago, March 26, 1919.

Chas. H. Aldrich, Esq.,
209 S. La Salle St.,
Chicago, Illinois.

Dear Sir:

A preliminary examination of the transactions recorded on the books of the Wm. Wrigley Jr. Co., affecting the Overhead account, the U. P. S. Coupon Account and the accounts comprising the charges for Advertising, has been made during the week ended March 22, 1919 in the offices of the Wrigley Company.

This examination has for its objective the verification of the data from which the Profit and Loss statements of Wrigley's Doublemint covering the accounting period from July 28, 1914 to November 12, 1918 were made but has so far consisted only of a series of tests of the charges appearing on those statements under the specified heads. It was made under the supervision of employes of the Wrigley Co. detailed to that duty and covered only entries and supporting data which were specifically asked for and submitted to us under their observation.

The following tests were made by our auditor who worked with a view to establishing, broadly, the elements composing the charges to the Doublemint Product, as they have been allocated on the Wrigley statements:

Under Overhead Expense:

Commission Original credits to Customers Accounts were examined for a period of several months.

Expense, Misc. Analysis of all entries during October and December 1917 and examination of all Cash book
598 charges for years 1916 and 1917.

Administration Analysis of all entries for months of June and December 1916 and 1917.

Agencies Analysis of all entries for months of October, November, and December 1917.

Trade Discounts Examination of entries October, November, and December 1917.

U. P. S. Coupon Account
Examination and Comparison of entries 1916 and 1917

Advertising Account.

Examination of Vouchers of the Stewart Davis Advertising Agency June and July 1916 and October, November, and December 1917. Analysis of all entries during June and July 1917.

These searches and tests were made with the object of determining if in our judgment items of doubtful propriety had been charged in the Wrigley statements against the Doublemint product.

We wish to call your especial attention to the following items which represent extracts from exhibits which are attached to and form a part of this report:

Under the head of Miscellaneous Expense there were charged during each of the years 1916 and 1917, four payments of $2500.00 each to J. R. Offield and payments of $30,000 each to F. F. Pulver.

Under Agencies during October, November, and December 1917 there were charged Donations and Christmas presents; $371.00, in December 1917, purchase of an Adding Machine $252.20 and in October 1917 $190.00 payment for new Ford car, which with allowance for an old car made purchase price $560.00.

Under Accounts Receivable Closed Out on December 18, 1916 there was charged $29,645.52 covering an allowance credited to Wm. Wrigley Jr. Co., Tokyo, Japan which was not sufficiently explained either verbally or on the original entry.

Under Trade Discounts there were during 1917, monthly credits to the United Cigar Stores Co. for allowances ranging over $3,000.00. A sample of these entries is shown on Exhibit 5.

599 We found that Donations for patriotic, Charitable and religious purposes in amounts from a few dollars to the installments on Red Cross subscription of $100,000.00 at the rate of $8,333.33 monthly, were charged against Advertising.

The Wrigley Advertising figures which were computed on some Arbitrary basis and not predicated on figures recorded in their books of account could not be analyzed as to their composition in an examination such as was made in this instance. The final disposition of these Advertising charges, if on other than the ratio of Doublemint to all sales will of necessity be the subject of an examination broader in scope than was contemplated at this time.

The Account of the Melbourne Corporation for 1916 shows the transfer of assets to that company, and the receipt of its

Capital Stock which was probably charged to individual holdings. Subsequent entries cover charges for materials and supplies purchased by the Chicago office for the Australian plant, and cash remittances received. The account shows a debit balance at the close of the year which would appear to represent working Capital furnished by the Wm. Wrigley Jr. Co.

The Account of the Canadian Corporation is, we were informed, included in the Accounts Payable ledger and for that reason will require a different line of investigation, that being a subsidiary record.

We attach statements showing in more detail the transactions covered as follows:

Exhibit I. Special items from Cash Charges to Miscellaneous Expense 1916 and 1917.
II. Analysis of Agency Account October, November and December 1917.
III. Officers' salaries June and December 1916 and 1917.
IV. U. P. S. Coupons redemptions 1916-1917.
V. Trade Discounts, Specimen entry October 1917.

Respectfully submitted,
EDWARD R. BURT & COMPANY,
By EDWARD R. BURT
Certified Public Accountant.

ERB:A

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Report by
EDWARD R. BURT and CO.
Certified Public Accountants
Ill.-o
Appraisers—Industrial Engineers

SPECIAL ITEMS—EXAMINATION OF CASH ENTRIES 1916 and 1917 MISCELLANEOUS EXPENSE

EXHIBIT 1.

1916			
Jan.	15	J. R. Offield	$ 163.66
Feb.	4	"	2,500.00
May	2	"	2,500.00
Aug.	1	"	2,500.00
"	7.	Anderson, Gilbert, Levi settlement claim, Mr. Cartledge	200.00
Oct.	28	J. R. Offield	362.18
Nov.	3	"	2,500.00
Dec.	18	F. F. Pulver	30,000.00
1917			
Feb.	2	J. R. Offield	2,500.00
Mar.	14	Albert H. Smith	1,500.00
Apr.	17	J. R. Offield	508.25
May	2	"	2,500.00
June	8	Frank H. Fleer Corp.	1,000.00
Aug.	4	J. R. Offield	2,500.00
	18	Peter Drolshagen	575.00
Sept.	11	Pam & Hurd	250.00
Nov.	1	James R. Offield	2,500.00
	6	"	500.78
	7	"	111.00
Dec.	12	Frank T. Hill	500.00
	12	F. F. Pulver	30,000.00
	18	Christmas	1,460.00

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Report by
EDWARD R. BURT and CO.
Certified Public Accountants
Ill.-o
Appraisers—Industrial Engineers

THREE MONTHS ANALYSIS AGENCY AS VOUCHERED.

EXHIBIT II.

NEW YORK:	October	November.	December.
B. L. Atwater Salary	$ 1,310.83	$1,310.83	$1,310.83
Expense	76.00	48.20	38.40
Office Salaries	1,360.34	1,659.25	986.60
Prepaid Freight	498.24	899.64	477.01
Foreign Freight War Risk Ins.)	18,601.45	3,525.13	945.19
Marine Insurance Consul Fees)			
Misc. & Office Expense	462.56	681.63	510.56
Donations	75.00		146.00
Attorney Fee	5.00		
Commission: B. L. Levy	1,733.07		205.05
Harrell & Robinson		535.64	48.00
Cartage & Express	1,418.08	1,200.10	789.06
Charged to Agencies	25,540.57	9,860.42	5,456.70
Advertising @ Agency *	327.70	375.49	606.50
* $327.70 includes $150.00 Donations.			
Detail Men	3,505.46	3,985.52	2,151.28
N. Grumbach Charged to Agencies	1,000.00	1,000.00	1,000.00
TOTAL NEW YORK VOUCHER	30,373.73	15,221.43	9,214.48
PHILADELPHIA:			
Wm. Scatchard Salary	453.75	453.75	453.75
Expense	27.00		27.75
Office Salaries	418.00	517.33	312.50
Cartage & Express	425.01	812.64	321.83
Rent	166.67	166.67	
Miscellaneous Expense	401.09	196.56	531.19
Freight	928.15	213.03	473.15
Adding Machine			252.20
Protest Fees			*3.18*
Charged to Agencies	2,819.67	2,359.98	2,369.19
Salaries & Expense Detail Men	1,169.57	1,302.18	661.63

BOSTON:				
S. P. Wiley Salary		544.50	544.50	544.50
Office Salaries		341.90	392.50	219.00
Cartage & Express		393.41	391.31	184.86
Rent		125.00	125.00	125.00
Miscellaneous Expense		321.79	259.43	211.68
Freight		188.96	228.30	139.60
New Ford Coupe	$ 560.00			
Allowance Old Car.	370.00	190.00		
Charged to Agencies		2,105.56	1,941.04	1,424.64
Salaries & Expense Detail Men		1,001.85	1,132.59	466.19

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Report by
EDWARD R. BURT and CO.
Certified Public Accountants
Ill.-o
Appraisers—Industrial Engineers

ADMINISTRATION—ANALYSIS OFFICERS SALARIES

EXHIBIT III.

	1916.		1917.	
	June.	December.	June.	December.
W. Wrigley, Jr.	$6,250.00	$6,250.00	$6,250.00	$6,250.00
W. H. Stanley	583.33	641.66	825.00	825.00
J. A. Gill	500.00	550.00	605.00	605.00
E. W. Eckerly	1,250.00	1,375.00	1,512.50	1,512.50
G. J. Neumann	325.00	357.50	393.25	393.25
	$8,908.33	$9,174.16	$9,585.75	$9,585.75

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Report by
EDWARD R. BURT and Co.
Certified Public Accountants
Ill.-o
Appraisers—Industrial Engineers

U. P. S. COUPONS REDEMPTIONS 1917 AND 1916.

EXHIBIT IV.

	1917.	1916,
PAID FOR REDEMPTION:		
January	$ 76,855.40	$ 34,427.97
February	60,673.44	41,091.53
March	33,382.88	28,682.39
April	51,136.97	33,122.72
May	42,898.25	29,613.28
June	55,479.86	35,649.13
July	58,836.03	44,318.78
August	54,546.67	50,896.32
September	46,361.88	48,201.14
October	45,238.25	41,570.57
November	52,532.22	42,164.72
December	57,096.33	44,140.44
	635,038.18	473,878.99

Above are figures as recorded on general ledger account.

For the purpose of their accounting the Wrigley Company took figures from February to January inclusive as the year. This covers Redemptions January to December inclusive.

Additional charges as shown on supplementary statement:

	Dr.	Cr.
	943.94	6.00
	1,507.71	1,698.00
	1,436.20	793.58
	924.42	3.00
	503.64	15.00
	988.45	623.75
	11.16	6.00
	2,042.76	47.63
	56.02	60.96
	79.48	52.50
	7.35	
	36.04	
	656.25	
Inventory	1,773.10	
Summary	4,214.78	
	15,181.30	3,306.42
	3,306.42	
	$ 11,874.88	

604 Report By
EDWARD R. BURT and CO.
Certified Public Accountants
Ill.-o.
Appraisers—Industrial Engineers

TRADE DISCOUNT, SPECIMEN ENTRY OCTOBER 1917.
EXHIBIT 5.

ENTRY—CREDIT MEMO
UNITED CIGAR STORES CO:

Oct. 1917 Shipments	$32,536.00	5%	$1,626.80
" 1914 "	10,254.72		
	$22,281.28	10%	2,228.13
			$3,854.93

Allowance of 5% on current month invoices
" " 10% " increase over corresponding month of 1914.

(Endorsed) Filed Jan 7, 1925 At —— o'clock ——M.
John H. R. Jamar, Clerk

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Entered Jan. 7, 1925.

606 And afterwards on, to wit, the 7th day of January, 1925 this matter coming on to be heard, the following order was entered by the Court:

607 • • • • • • •

Wednesday, January 7, A. D. 1925

Present: Honorable James H. Wilkerson, District Judge.

Upon motion It Is Ordered that the motion for the entry of a decree and motion for appeal of Larson & Company be and the same is hereby entered and continued to January 16, A. D. 1925.

611 And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a certain Testimony, pages 192 Vol. I, hereto follows in words and figures following towit (being a copy of Larson Exhibit 10 before the Master): (See pp. 569-571, printed record.)

613 And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a certain Testimony, page 194 Vol. I, hereto follows in words and figures following (being a copy of Larson Exhibit 11 before the Master) to wit: (See pp. 569-571, printed record.)

615 And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a certain Testimony, pages 196, Vol. I, hereto follows in words and figures following (being a copy of Larson Exhibit 12 before the Master) to wit: (See pp. 569-571, printed record.)

617 And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a certain Testimony, page 198, Vol. I, hereto follows in words and figures following (being a copy of Larson Exhibit 13 before the Master) to wit: (See pp. 569-571, printed record.)

619 And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a certain Testimony, page 210, Vol. I, hereto follows in words and figures following (being Larson Exhibit 15 before the Master) to-wit:

620 to the Dun Agency on behalf of the Wrigley Company.

(Said statement, so offered, received in evidence marked Larson Exhibit 15 and is in the words and figures following:

"Wm. Wrigley Jr. Chicago, Ill.

J. H. Patrick made the following signed statement for the company on April 16, 1914, from inventory of January 1st, 1914.

Assets

Cash	$ 542,242.87
Accounts receivable	745,421.38
Merchandise	2,620,729.91
Advances	117,974.48
Real estate and machinery	1,412,211.94
Good Will and trade marks	7,500,000.00
	$12,938,586.58

Liabilities

Capital stock	$ 9,000,000.00
Accounts payable	68,643.85
Surplus	3,869,942.73
	$12,938,586.58

Q. So far as you know is that the only report made to the Dun Company?

A. So far as I know it is the only report that has ever been made since this concern has been in existence.

Mr. Mayer: To an agency?

A. To an agency, yes, sir. We have the highest rating it is possible to give and have continued to have it so it is not necessary to make reports.

Mr. Aldrich: I congratulate you, Mr. Wrigley, and ourselves.

(LARSON EXHIBIT NO. 18, pp. 588, 589 printed record.)

624 And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a copy of the Testimony taken before the Master, pages 247-269 inclusive, in words and figures following (being Larson Exhibit 16) to-wit:

625 •Canada

Excerpts of
Minutes of the Regular Meeting of Stockholders of
The Wm. Wrigley Jr. Company,

Pursuant to the By-Laws of the Wm. Wrigley Jr. Company, the regular meeting of the stockholders was held on the 5th day of January, 1916, at 2:00 P. M., at the office of the said Company, #5 N. Wabash Ave., Chicago, Ill.

'Mr. Wm. Wrigley, Jr. reported that this Company had received an offer to purchase certain property and assets of the Company now situated within the Dominion of Canada, and thereupon read to the stockholders the said offer of purchase from Wm. Wrigley Jr. Company, Limited. Upon motion of H. H. Hitchoock and seconded by O. J. Buck, it was moved that this Corporation, through its officers, accept the written offer of the said Wm. Wrigley Jr. Company Limited, and that the terms to purchase therein set forth be approved by the stockholders, provided the tangible assets do not aggregate over Five Hundred Thousand Dollars ($500,000). Motion was unanimously carried.' ''

626 Excerpt of
Minutes of the Regular Meeting of the Board of
Directors of the Wm. Wrigley Jr. Company

The Board of Directors of Wm. Wrigley Jr. Company, a corporation organized under the laws of the State of West Virginia, met pursuant to the provision of the By-Laws providing no notice of the annual meeting need be given. Meeting held at the offices of the Company, Kesner Building. #5 N. Wabash Ave., Chicago, Illinois, on Wednesday, January 5th, 1916, at 3:00 P. M.

'The Chairman reported that an offer had been rereived from W. Wrigley Jr. Company Limited of Toronto, Canada,

to purchase the assets of this Company situated within the Dominion of Canada, together with other property specified in the written offer of Wm. Wrigley Jr. Company Limited to Wm. Wrigley Jr. Company, under date of January 4th, 1916.

Upon motion duly made by H. H. Hitchcock and seconded by A. G. Cox, the following Resolution was unanimously adopted;

Resolved, That the offer of Wm. Wrigley Jr. Company Limited contained in their letter contract of January 4th, 1916, and approved by the stockholders of this Corporation, be accepted by the Officers of this Corporation as approved by the stockholders, and that the Officers of this Corporation be duly authorized to accept the same under the seal of this Corporation and that the said Wm. Wrigley Jr. Company Limited be forthwith notified of such acceptance.

Be It Further Resolved, that the Officers of this Company be empowered to execute such formal documents, transfers, assignments and other necessary papers as may be found
627 essential to carry into effect the intent of the written offer of January 4th, 1916.

Upon motion being made by James R. Offield and seconded by O. J. Buck, the following Resolution was adopted:

Resolved, that the Secretary be instructed to attach copy of said offer to the minutes of this meeting as received and modified.

Upon motion of James R. Offield and seconded by H. H. Hitchcock, the following resolution was unanimously adopted:

Resloved. That if modified offer to the Wm. Wrigley Jr. Company Limited, of Toronto, be accepted, that the Officers of this Company be empowered to distribute One Million Five Hundred Thousand Dollars ($1,500,000) Common Stock of the Canadian Company pro rata to the Common Stockholders of this Company as of record January 5th, 1916, on or before March 1st, 1916, stockholders thereby receiving a Twenty Percent (20%) stock dividend of the Common Stock of the Wm. Wrigley Jr. Company Limited, Toronto, Canada, of their present holdings of this Company."

Toronto, January 4th, 1916.

To Wm. Wrigley Jr. Company,
Chicago, Illinois:

Dear Sirs:—

We hereby offer to purchase, as of the 5th day of January, 1916, all the property and assets of your Company of whatsoever kind and description situate within the Dominion
628 of Canada, together with alll the business, trade name and good will connected therewith or conducted by you within the said Dominion; and, while not limiting the above, including all your real estate, factories, plant, manufactured and raw stock and products, and all fixtures, machinery, furniture, books and records, brands, trade marks and labels, whether registered or unregistered, patents, patent rights, trade secrets, process and formulae, franchises, bills, notes, cash, accounts, receivable, manufactured goods, supplies and merchandise, contracts and contract rights within the Dominion of Canada, and all other assets whatsoever of this Company within said Dominion; together with the right, for the Dominion of Canada, to all inventions, patents marks, brands and labels that may hereafter be invented adopted or otherwise evolved by you, and all improvements thereon.

We agree to pay you for the same $2,000,000 as follows—$500 in cash; $499,500 by the issue of a like amount, at par, of preference stock of this Company, fully paid; and $1,500,000, at par, of the common stock of this Company, fully paid.

This offer is, we are advised, sufficiently binding if made under seal of the Company, and it accordingly will be made under seal and signed by the proper officers in that behalf, as provided for in the Resolution approving the same, which has been duly passed by the directors and approved by the shareholders; and any acceptance should, in like manner, be executed under seal of your Company.

629 If this offer is accepted formal documents, transfers, assignments and other necessary papers shall, upon request, be executed by your company and the undersigned, to carry into effect the intent of this offer.

Yours truly,
WM. WRIGLEY JR. COMPANY, LIMITED.
WILLIAM A. CASE,
President.
JAMES B. TAYLOR,
Secretary."

"Jan. 6th, 1916

Wm. Wrigley Jr. Company, Ltd.,
Wrigley Building,
Toronto, Ont., Canada.
Gentlemen:

Attention Mr. Wm. A. Case, President.

We have your letter of January 4th containing your offer and beg to reply as follows:

We agree to sell all of the property and assets of our company of whatsoever kind and description, situate within the Dominion of Canada, together with all the business, trade-name and good will connected therewith or conducted by us within said Dominion, limiting the above property, however, to the tangible property and assets of our company not exceeding Five Hundred Thousand Dollars ($500,000) in value, but including all our trade-marks, good will
630 and business relating thereto. This offer includes real estate, factories, plant, manufactured and raw stock and products, and all fixtures, machinery, furniture, books and records, brands, trade-marks and labels, whether registered or unregistered patents, patent rights, trade secrets, processes, formulae, merchandise, bills notes, cash accounts, receivable, manufactured goods, supplies, and merchandise, contracts and contract rights within the Dominion of Canada, and all other assets whatsoever of this company within said Dominion, together with the right for the Dominion of Canada, to all inventions, patents, marks, brands, and labels, that may hereafter be invented, adopted or otherwise evolved by us and all improvements thereon. The consideration for the sale of such property shall be as stated in your offer.

The reason for modifying your offer is that our company has certain raw stock now in Canada which, in itself, is of great value and obviously could not be sold under the terms of purchase as herein stated. The intention was that we would sell enough of our tangible property in the Dominion of Canada to equal in value the preferred stock of your Company, the common stock being in consideration of our tradenames, marks, trade rights, good will and business connected therewith, together with our patents, processes, formulae and trade secrets.

If the foregoing modification of your offer if acceptable to your company, we hereby accept such offer, or you
631 may accept our offer by written acceptance signed by the proper officers in your behalf.

If this offer is accepted formal documents, transfers, assignments and other necessary papers should be immediately prepared with an itemized list of the properties to be transferred set forth thereon.

Very truly yours,
WM. WRIGLEY JR. COMPANY.
(Signed) By E. W. ECKERLY,
Vice-President.

Attest:
(Signed) W. H. STANLEY,
Secretary.

—o—

"Canada

This Agreement made in duplicate the Seventeenth day of February, 1916, pursuant to the Conveyancing and Law of Property Act.

Between:

Wm. Wrigley Jr. Company, a Corporation incorporated under the laws of the State of West Virginia, hereinafter called 'The American Company,' of the First Part: and

Wm. Wrigley Jr. Company, Limited, a Corporation incorporated under the Laws of the Dominion of Canada, hereinafter called "The Canadian Company" of the Second Part:

632 Whereas the American Company has heretofore agreed to sell and the Canadian Company has agreed to purchase certain assets of the American Company in Canada, together with the good will of the American Company in Canada and the Canadian patents and trade marks of such Company, and it was agreed that formal documents effecting such transfer should be executed.

Now Therefore This Agreement Witnesseth that in consideration of the premises and of the mutual covenants, provisions, and restrictions herein set out the parties hereto mutually agree together as follows:

1. The American Company agrees to sell and the Canadian Company agrees to purchase all the property and assets of the American Company situate within the Dominion of Canada, together with all the business, trade name, and good will connected therewith or conducted by the American Company within the said Dominion and while not limiting the above, including all real estate, factories, plant, manufactured and raw stock and products, and all fixtures, machinery, furniture, books and records, brands, trade marks, and labels,

whether registered or unregistered, patents, patent rights, trade secrets, processes, formulae, merchandise, bills, notes, cash, accounts receivable manufactured goods, supplies, and merchandise, contracts, and contract rights within the Dominion of Canada, and all other assets whatsoever of this Company within the said Dominion as of the 18th day of
633 December, 1915, and all business since such date, together with the right for the Dominion of Canada to all inventions, patents, marks, brands and labels that may hereafter be invented, adopted, or evolved by the American Company, and all improvements thereon, and including the assets set out in Schedules 'A' and 'B' hereto.

2. The Canadian Company agrees to pay therefor the sum of Two Million, Ninety-four Thousand, Nine Hundred and Forty-seven Dollars and Eighty-four cents ($2,094,947.84) as follows: Five Hundred Dollars (500.00) in cash, Ninety-four Thousand Nine Hundred and Forty-Seven Dollars and Eighty-Four Cents ($94,947.84) by a promissory note payable on demand to the American Company, with interest at a rate to be agreed on but not exceeding five per cent (5%) per annum; Four Hundred and Ninety-nine Thousand Five Hundred Dollars ($499,500.00) by the issue of a like amount at par of the preference stock of the Canadian Company fully paid; and One Million and Five Hundred Thousand Dollars ($1,500,000.00) at par by the issue of a like amount of the common stock of the Canadian Company fully paid, which stock shall be issued to the American Company or its nominees.

3. The Canadian Company further covenants and agrees to pay and discharge as and when the same fall due the accounts payable as shown in Schedule 'A' hereto, amounting to Four Thousand Nine Hundred and Seventy Six Dollars and fifty two cents ($4,976.52).

634 4. The American Company further covenants and agrees to pay and discharge all other debts and liabilities, charges, assessments and taxes heretofore or hereafter levied or due or to become due in respect of all operations and the carrying on of the business prior to the 18th day of December, 1915 and while not limiting the above, all War taxes and taxes upon income referrable to the period prior to December 18th, 1915, save and except debts referred to in clause 3 hereof.

5. It is further understood and agreed that all stock and supplies of raw chicle owned by the American Company on the 18th day of December 1915 or since acquired by it and

whether on the premises the subject to this agreement or elsewhere within Canada, shall remain the property of the American Company.

6. The American Company covenants and agrees not to do business in the Dominion of Canada, and the Canadian Company covenants and agrees not to do business without the said Dominion of Canada.

7. The American Company further covenants and agrees to execute all such further assignments, transfers and documents necessary to vest the title to the assets herein conveyed in the Canadian Company.

In Witness Whereof the parties hereto have affixed their corporate seals under the hands of the proper officers in that behalf.

635

Witness:
(Signed)
L. S. JAMES R. OFFIELD

WM. WRIGLEY JR. COMPANY LIMITED
WILLIAM A. J. CASE, *President*
JAMES B. TAYLOR, *Secretary*
WM. WRIGLEY JR. COMPANY
By E. W. ECKERLY, *Vice Pres.*
W. H. STANLEY, *Secretary.*

L. S.

Schedule 'A'

Tangible Assets

Cash in Bank	63,692.83
Accounts Receivable	67,449.40
Merchandist & Supplies on hand Toronto, Winnipeg & Vancouver—	172,388.64
Real Estate and Buildings	252,818.11
Machinery & Equipment	43,575.38
Total	$599,924.36
Deduct Accounts Payable	4,976.52
Net Assets	$594,947.84

(Signed) WM. WRIGLEY JR., COMPANY LIMITED
WILLIAM A. J. CASE, *President*
L. S. JAMES B. TAYLOR, *Secretary*
WM. WRIGLEY JR. COMPANY
L. S. By E. W. ECKERLY, *Vice Pres.*
W. H. STANLEY, *Secretary*

636 Schedule 'B'

Intangible Assets.

1. Good-will of the Company in the Dominion of Canada.
2. Albert Price Patent No. 128564, for Dominion of Canada.
3. Cesare Barbieri Sheeting Machine Patent No. 129645, for Dominion of Canada.
4. Cesare Barbieri Patent No. 129644, for Dominion of Canada.
5. Doublemint Trade Mark in Canada Register No. 82, Folio 20133.
6. Triplemint Trade Mark in Canada register No. 82, Folio 20265.
7. Twinmint Trade Mark in Canada register No. 84, Folio 20580.
8. Spearmint Trade Mark in Canada register No. 53, Folio 12931.
9. Three leases Carlaw Avenue Buildings:
   1. British American Wax Paper Co.
   2. Dominion Register Co.
   3. A. D. Shoup Co.
10. Leases, formulae, trade secrets, and other intangible assets referred to in agreement.

WM. WRIGLEY JR. COMPANY LIMITED
WILLIAM A. J. CASE, *President.*
L. S. (Signed) JAMES B. TAYLOR, *Secretary.*
L. S. WM. WRIGLEY JR. COMPANY
By E. W. ECKERLY, *Vice Pres.*
W. H. STANLEY, *Secretary*"

637 (Crest)

Canada

By the Honourable Pierre Edouard Blondin, Secretary of State of Canada.

To all to whom these presents shall come, or whom the same may in anywise concern, Greeting:

Whereas, in and by the 1st part of Chapter 79 of the Revised Statutes of Canada, 1906, and known as 'The Companies Act' it is amongst other things, in effect enacted, that the Secretary of State may, by Letters Patent, under his

Seal of Office, grant a Charter to any number of persons, not less than five, who having complied with the requirements of the Act, apply therefor, constituting such persons, and others who hereafter become shareholders in the Company thereby created, a Body Corporate and Politic for any of the purposes or objects to which the Legislative Authority of the Parliament of Canada extends, except the construction and working of Railways or of the Telegraph or Telephone lines, or the business of Banking and the issue of paper money, or the business of Insurance or the business of a Loan Company, upon the applications therefor establishing to the satisfaction of the Secretary of State due compliance with the several conditions and terms in and by the said Act set forth and thereby made conditions precedent to the granting of such Charter.

638 And Whereas, William Alfred James Case, Solicitor; James Broadbent Taylor and George Charles Loveys, Accountants, and William Morley Smith and William John Beattie, Students-at-law, all of the City of Toronto, in the Province of Ontario, have made application for a Charter under the said Act, constituting them and such others as may become shareholders in the Company thereby created, a Body Corporate and Politic, under the name of "Wm. Wrigley, Jr., Company, Limited" for the purpose hereinafter mentioned, and have satisfactorily, established the sufficiency of all proceedings required by the said Act to be taken, and the truth and sufficiency of all facts required to be established previous to granting of such Letters Patent, and have filed in the Department of the Secretary of State a duplicate of the Memorandum of Agreement executed by the said applicants in conformity with the provisions of the said Act.

Now Know Ye, that I, the said Pierre Edouard Blondin, Secretary of State of Canada, under the authority of the hereinbefore in part recited Act, do by these Letters Patent, constitute the said William Alfred James Case, James Broadbent Taylor, George Charles Loveys, William Morley Smith and William John Beattie, and all others who may become shareholders in the said Company, a body Corporate and Politic, by the name of 'Wm. Wrigley, Jr. Company,

639 Limited' withall the rights and powers given by the said Act and for the following purposes and objects, namely:—

(a) To carry on the business of manufacturers of and dealers in chewing gum, confectionery, gum chicle and show cases, jars, boxes, packages, receptacles, containers, vending

machines and other devices for containing or displaying the same; and to buy, sell and deal in, manufacture, hire and let on hire, all kinds of material, merchandise and products entering into the manufacture thereof, and all machines, tools and appliances useful in manufacturing the same;

(b) To construct, improve, work maintain, manage, carry out or control and to purchase, sell, lease or otherwise dispose of any lands, works, mills, machinery, wharves, manufactories, warehouses, shops, stores, and other works and conveniences which may seem capable of being used or operated in connection with any part of the Company's undertaking for the time being, or calculated directly or indirectly to benefit the Company:

(c) To apply for and receive or to acquire by enactment, grant, assignment, transfer, lease or otherwise and to exercise, carry out and enjoy any statute, ordinance or succession, patent, license, power, authority, franchise, right or privilege which any government or authorities, supreme, municipal or local or any corporation or other public body may be empowered to enact, make or grant, and to pay for, aid in and contribute towards carrying the same into effect, and to
640 appropriate any of the Company's shares, bonds and assets to defray the necessary costs, charges and expenses thereof;

(d) To apply for, purchase, adopt, register or otherwise acquire any patents, trade-marks, trade names, designs, prints, labels, brevets de'invention, grants, licenses, leases, concessions and the like, conferring any exclusive or non-exclusive or limited right and any formulae and process and any inventions patented or otherwise, and any information as to any invention which may seem capable of being used for any of the purposes of the company, or the acquisition of which may seem calculated directly or indirectly to benefit this Company, and to pay for the same in cash, shares or securities of the Company or otherwise, and to use, exercise, develop or grant licenses in respect of, or otherwise, turn to account, the property rights, interests, or information so acquired;

(e) To carry on any other business, whether manufacturing or otherwise, which may seem to the Company capable of being conveniently carried on in connection with the business or objects of the Company, or calculated directly or indirectly to enhance the value of or render profitable any of the Company's property or rights;

(f) To purchase or otherwise acquire the shares, bonds,

debentures or other securities of any other company or corporation, notwithstanding the provisions of Section 44 of the said Act, and to pay off the same in the shares, bonds,
641 debentures or other securities of this Company, and to hold, sell, vote or otherwise, deal in the shares, bonds debentures or other securities so purchased, and to guarantee payment of the principal of or the dividends and interest on said shares, bonds, debentures or other securities, and to promote any company or corporation having objects altogether or in part similar to those of this Company, or carrying on any business capable of being carried on so as directly or indirectly to benefit this Company;

(g) To sell, lease, or otherwise dispose of the property, rights, franchises and undertaking of the Company, the assets thereof or any part thereof, for such consideration as the Company may think fit, and in particular for shares, debentures, bonds, or other securities of any other company having objects altogether or in part similar to those of this Company;

(h) To consolidate or amalgamate with any other company having objects similar in whole or in part to those of this Company;

(i) To enter into any arrangement for sharing profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise with any person, firm or corporation carrying on or engaged in or about to carry on or engage in any business or transactions capable of being conducted so as directly or indirectly to benefit this Company and to take or otherwise acquire shares and securities of any such company and to sell, hold, issue or re-issue the same, with or with-
642 out guarantee of principal and interest and otherwise to deal in the same;

(j) To purchase, lease or otherwise acquire and to hold, exercise, and enjoy in its own name or in the names of the persons, firms, company or companies hereinafter referred to, if thereunto duly authorized, all of any of the property, franchises, good-will, rights, powers, and privileges held or enjoyed by any person or firm or by any company or companies carrying on or formed for carrying on any business similar in whole or in part to that which this Company is authorized to carry on, and to pay for such property, franchise, good-will, rights, powers and privileges wholly or partly in cash or wholly or partly in paid-up shares of the Company or otherwise, and to undertake the liabilities of any such person, firm or company;

(k) To furnish aid to any business or undertaking similar in whole or in part to that of the Company, customers of the Company and any others with which the company may have business relations, by way of loans, bonus, endorsement, agreement, guarantee, management or other service, and to manage, supervise and control the same in whole or in part and to act as agent or attorney for the same;

(l) To invest the moneys of the company not immediately required in such investments as may from time to time be determined:

(m) To distribute in specie or otherwise as may be
643 resolved any assets of the Company among its members and particularly the shares, bonds, debentures or other securities of any other company that may take over the whole or any part of the assets or liabilities of this Company;

(n) To invest and deal with the moneys of the Company not immediately required upon such securities and in such manner as may from time to time be determined;

(o) To aid in any manner any corporation, any of whose shares of capital stock, bonds or other obligations are held or are in any manner guaranteed by this Company, and to do any acts or things for the preservation and protection, improvement or enhancement of the value of any such shares of capital stock, bonds or other obligations, to do any and all acts and things tending to increase the value of any of the property at any time held or controlled by this Company:

(p) To do all such things as are incidental or conducive to the attainment of the above objects;

(c) To perform, promote and otherwise facilitate the organization of subsidiary companies:

(r) Any power granted in any paragraph hereof shall not be limited or restricted by reference to or inference from the terms of any other paragraph or to or from the name of the Company:

The operations of the Company to be carried on throughout the Dominion of Canada and elsewhere.

644 The place within the Dominion of Canada which is to be the chief place of business of the said Company is the City of Toronto, in the province of Ontario.

The Capital Stock of the said Company shall be Two Million Dollars divided into Twenty Thousand shares of One Hundred dollars each, subject to the increase of such Capital Stock under the provisions of the said Act, of the said capital stock five thousand shares shall be preference stock and the

remaining fifteen thousand shares shall be common or ordinary stock. The said preference stock shall be entitled to and shall bear a fixed cumulative dividend at the rate of six per cent per annum, payable monthly on the first day of each calendar month, in each and every year in preference and priority to any payment of dividendes on the common stock and shall not be entitled to any further right to or interest in or with regard to the profits of the company. In case of a dissolution or the liquidation of the company, the preference stock and holders thereof shall be entitled to preference in the distribution of the assets and property of the Company in priority to the common stock and the holders thereof to the amount paid upon such preference stock at par with all dividends accumulated and unpaid thereon; Dividends on the common stock may be paid at any time out of the net profits of the company after payment of all accumulated and unpaid dividends on the preference stock; the holders of preference stock shall not be entitled to vote the said stock at any meeting of the Com-
645 pany: provided nevertheless that upon the failure of the Company to pay dividends on the said preference stock on any dividend day, the holders of the preference stock shall be entitled to vote on the same as if the same was common stock until all dividends accumulated and unpaid thereon have been paid and upon payment of the same all right to vote on the said stock shall cease until a further failure to pay the dividends thereon and so on from time to time; Provided further that the directors of the Company may from time to time make by-laws varying or entirely cancelling the preference and priority and other terms and conditions of the preference stock as above set out, but any such by-law shall have no force or effect no shall it be acted upon until it has been confirmed and approved by the holders of seventy-five per cent of the then issued preference stock nor until such by-law has been sanctioned and confirmed by a vote of not less than two-thirds in value of the issued common stock represented at a general meeting of the Company duly called for considering the by-law and confirmed by Supplementary Letters Patent. And it is hereby ordained and declared that, if authorized by by-law sanctioned by a vote of not less than two-thirds in value of the subscribed stock of the Company, represented at a general meeting duly called for considering the by-law, the directors may from time to time, (a) Borrow money upon the credit of the Company; (b) Limit or increase the amount to be borrowed; (c) Issue bonds,

debentures, debenture stock or other securities of the company and pledge or sell the same for such sums and at such
646 prices as may be deemed expedient; (d) Hypothecate, mortgage or pledge the real or personal property of the company, or both to secure any such bonds, debentures, debenture stock or other securities and any money borrowed for the purposes of the company; Nothing on this clause contained shall limit or restrict the borrowing of money by the Company on the bills of exchange or promissory notes made, drawn, accepted or endorsed, by or on behalf of the Company.

That the said William Alfred James Case, James Broadbent Taylor, George Charles Loveys, William Morley Smith and William John Beattie, are to be the first or Provisional Directors of the said Company.

Provided Always that nothing in these Presents expressed or contained to authorize the construction and working of Railways or of Telegraph or Telephone Lines, or the business of Banking, and the issue of paper money, or the business of Insurance or the business of a Loan Company by the said Company.

Given under my hand and Seal of Office at Ottawa this third day of January, 1916.

(Sgd) P. E. BLONDIN
Secretary of State

(Seal of Secretary of State, Canada)"

647 (Said copy of Letters Patent incorporating Wm. Wrigley Jr. Company, Limited, endorsed on back as follows:

"Copy
of
Letters Patent
Incorporating
'Wm. Wrigey Jr., Company
Limited'

Dated 3rd January, 1916,
Recorded 3rd January 1916
Lib. 240, Fol. 118
(Sgd) Thomas Mulvey,
Dep. Registrar General
of Canada.

Ref. No. 64297."

—o—

Mr. Aldrich: Q. Have you the papers relating to the organization of the Australian Company?

A. Yes, sir.

Mr. Mayer: Without waiving, but expressly renewing and insisting on the objections already made to producing or to introducing or to receiving any of the documents referred to by counsel, we now hand him the following: copy of minutes of a regular meeting of the stockholders of the Wm. Wrigley

647½ And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a certain Testimony, pages 284a, 284b, 284c. Vol. I, hereto follows in words and figures following (being Exhibit 18 before the Master) to-wit:

650½ And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a copy of certain Testimony, taken before the Master, pages 2336 to 2342 inclusive, Vol. VI, here follows in words and figures following to-wit:

651 Thursday, January 8, 1920, 10:30 o'clock a. m.

Met pursuant to adjournment.

Present:

Messrs. Aldrich, Mayer, Lane.

Mr. Mayer: The master will recall that yesterday I referred to a letter dated July 9, 1919, from Messrs. Aldrich and Reed to you and your reply thereto on July 11th, and that I had prepared a reply and wished to present that reply at the first and earliest session and postponed doing so at the request of Mr. Reed until today.

Mr. Aldrich: I request my letter go on the record and at the proper time I was going to make that request.

The Master: It is granted.

(Said letter signed by Mr. Aldrich and Mr. Reed, dated July 9, 1919, is in the words and figures following:

"Chicago, July 9, 1919.

Charles B. Morrison, Esq.
Master in Chancery,
Federal Building,
Chicago.

In re Edward Gledhill.

Dear Sir:

As you know, the decree entered in this cause empowered you to employ chartered accountants and prescribed that if you decided to exercise such powers the persons selected should have no interest in the questions in controversy and required you to administer an oath to them to impartially and faithfully examine all books, orders, shipments, reports, letters and files of said Wm. Wrigley Jr. Company to
652 ascertain the profits, if any accruing * * * from the sale of Doublemint as contradistinguished from the other brands of gum made by said company during the period, making proportionate deductions for overhead, advertising

and other proper expenses, and report the facts for each year embraced in the terms of the decree, etc.

Thus, the character of the persons appointed, their relations to the controversy and the court, their obligations, and to a large extent the form of the report, were carefully defined.

The subject of the exercise of this power by you was discussed at the hearing of December 10, 1918, (R. 222-234). It had been discussed October 16, 1918, but this discussion was not made a part of the records.

You will see that opposing counsel asked that the master 'satisfy himself that the auditors selected by him are impartial and that they will carry on their investigation impartially, not as a partisan of either party to the litigation, so that whatever conferences such appointee may see fit to have will be with the master alone, or if with any of the parties, it will be only upon notice and in the presence of both parties, and I assume also that whomever you select will be a firm or institution having no affiliations with any of the parties or their counsel.' (R. 226.)

To this the master said (R. 227-228):

'I agree with you exactly, Mr. Mayer, that this accountant ought not to be pulled or hauled or directed by either of the parties to this suit or by their counsel; that if either of you want to direct this accounting along certain lines, that you should notify the opposite party and appear before the master and have that matter determined and instructions given to the accountant by the master. Now, does that meet you approval, Mr. Aldrich?

Mr. Aldrich: It does.'

And later this occurred (R. 230):

'Mr. Aldrich: I want to ask another question of the master. I take it that not only the head men must take the oath that is prescribed the the decree, but that the subordinates should not confer with anybody.

'The Master: No, and I suppose they should be sworn.

'Mr. Aldrich: Yes, I think they should be sworn.

653 'Mr. Mayer: We do too. I think the decree requires it.' and (R. 232)

'Mr. Mayer: It seems to me that, inasmuch as the responsibility of deciding this case is on the master, that the master would want to give the instructions to these auditors. I don't mean to intimate that suggestions should not come from either or both sides through the master to them.

'Mr. Aldrich: That's the only place they can come from as I understand it.'

and (R. 233-234)

'The Master: I have told both of them already that provisions would be made so that they would be paid along from time to time and I have already impressed upon them that this must be an impartial report, that they represent the court, are in the position of a court officer and under no obligations to either side in this case.

'Mr. Aldrich: And not to confer with either side or any of the employes of either side.

'The Master: I will so instruct them.

'Mr. Mayer: Of course, they will have to confer with employes of the Wm. Wrigley Jr. Company so far as necessary for them to ask for books and papers and documents.

'Mr. Aldrich: Certainly.

'The Master: Well, you have suggested what I was about to say. Now, it is quite common for these accountants to ask a good many questions of the bookkeepers and persons in charge of accounts over there and get such information as they can.

'Mr. Aldrich: It is proper for them to.

'The Master: Yes. I shall say to them, however, that they are not to take their statement on any material question without verifying it.'

In subsequent places in the record the fact that all communications between the parties and these accountants must be through you as master has been emphasized and made prominent. This was known to the officers of the Wrig-
654 ley Company as well as to Mr. Larson. Mr. Gledhill knew it, as he had both taken the oath prescribed and had a copy of the record and decree before him.

We do not deem it necessary to make any argument that Mr. Gledhill's conduct and relations with the officials of the Wrigley Company constitute a clear violation of the conditions and terms of his appointment as defined upon the record by the master and counsel for the respective parties. Nor have we any concern with the question whether he was improperly influenced by his contact with these officials. We are not required to make experiments by awaiting the result of his labors: The conduct and relations shown by the examination of Mr. Gledhill reflects quite as much upon the Wrigley officials as upon Mr. Gledhill. The excuses put into his mouth by shrewd, cross-examining counsel do not excuse

either the accountant or the Wrigley officials and are in our judgment, in many cases inconsistent with known facts.

The accountant was representing the court, and we recognize that the question is one which primarily must be determined by you.

The monuments are now so well established in this case that no action by an indiscreet or even dishonest accountant can now injure the Larson Company to any great extent, or enable the Wrigley Company to escape a finding that its report filed herein is grossly false in purpose and results.

This fact, however, does not justify us in passing in silence this manifest violation of the spirit and terms of the employment. The master and the parties are entitled to the impartial statement of the profits arising from the manufacture and sale of Doublemint gum for the period prescribed, based as the decree provides on the records of the company and not upon information derived from officials of the Wrigley Company, gleaned at luncheon or dinner tables or in houses of such officials.

We therefore think the Wrigley Company should be required to pay the cost of Mr. Gledhill's work to this date paid by the Larson Company, and that Messrs. Marwick, Mitchell, Peat & Company should make the report from examinations conducted as required by the master's directions, and as is provided in the decree.

655 We are sending a copy of this communication to opposing counsel.

Very truly yours,

CH.-A.N.P. CHARLES H. ALDRICH
FRANK F. REED."

Mr. Mayer: To this letter Mr. Aldrich refers to, which is dated July 9, 1919, and which the master has just said should appear in the record, we make the following reply which we offered to read yesterday but postponed until today at Mr. Reed's request, yesterday being the first day which we have reconvened for the purpose of taking evidence since the adjournment last summer. It is dated January 7, 1920, addressed to Honorable Charles B. Morrison, Federal Building, Chicago, Illinois, and is as follows:

"Dear Sir:

On July 11, 1919, we received a carbon copy of a letter directed to you, dated July 9, 1919, and signed by Charles H. Aldrich and Frank F. Reed, entitled in re Edward Gledhill.

We also have carbon copy of your letter of July 11, 1919, directed to Mr. Aldrich and Mr. Reed relative to the same matter, in which you state that you assume that you are not expected to act until the hearings are resumed in the Fall, and that it was understood by you that nothing would be done in the case until after vacation; hence our reason for not writing before.

We cannot acquiesce in the position taken by counsel for the Larson Company, for the evidence adduced, and the other facts so far as they have come to our knowledge, show plainly that the only intercourse between Mr. Gledhill and the employes of the Wrigley Company was that necessitated by his employment in the capacity of accountant, and the ordinary amenities of life between persons constantly thus thrown together by the very nature of the employment.
656 None of the parties had the slightest idea that they were in any way transgressing the limits of propriety in doing what each did; in fact, it is admitted by counsel for the Larson Company that 'the monuments are now so well established in this case that no action by an indiscreet or even dishonest accountant can now injure the Larson Company to any great exte t." The fact plainly is that there is nothing either in the record or within the facts, as we understand them to be, that in any wise justifies any serious criticism against the employes of the Wrigley Company or against the accountant, Gledhill, and we most emphatically assert that nothing has appeared in the record, nor has anything happened so far as we are advised, which would in any way justify the demands made by the Larson Company in their letter of July 9, 1919.

The Wrigley Company has not the slightest desire to profit through any supposed favoritism or friendship on the part of the accountant appointed by the master, nor to be charged with receiving any benefit, because of any alleged close relationship between the accountant selected by the master and any employes of the Wrigley Company. While we emphatically disclaim any liability whatsoever to pay the cost of Mr. Gledhill's work to this date, as suggested by the attorneys for the Larson Company, we are quite willing that the master should select a new, fully qualified accountant, if he thinks it advisable, and give such new accountant explicit directions as to the exact limitations upon just what he may or may not say or do to or with the employes of the Wrigley Company, covering such matters as to whether the

new accountant should exchange the ordinary salutations of the day upon metting or parting from them; whether he should eat meals in the same club or public restaurants at which they may eat; ride upon the same cars, or accept such other slight courtesies as a ride in a carriage or motor if one of the Wrigley employes and the accountant happen to be going in the same direction; and that such accountant should cover the entire ground which Mr. Gledhill has heretofore covered; and if the new accountant, in the duplication of the work covered by Mr. Gledhill, discloses any serious error or falsity of statement in Mr. Gledhill's work, which could reasonably be imputed to bias or favoritism, we are then willing to agree that the Wrigley Company should pay the cost of Mr. Gledhill's work to date. If it is disclosed that Mr. Gledhill's work to date has been honestly and impartially done, the cost of the work done by Mr. Gledhill should, of course, be paid by the Larson Company, and the cost of the new accountant's work should abide the issue of this trial as the cost of Mr. Bledhill's work would have done if its impar-

657 tiality had not been questioned by counsed for the Larson Company.

Very truly yours,

ISAAC H. MAYER
WALLACE R. LANE"

659½ And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court a certain Testimony taken before the Master, a copy of pages 2390, 2391, 2392, Vol. VI, is in words and figures following to-wit:

660 Tuesday, April 20, 1920, 10 o'clock a. m.

Met pursuant to notice.

Present: Messrs. Aldrich, Lane.

Mr. Aldrich: I have a notice here which was served on Messrs. Lane and Mayer, Meyer, Austrian & Platt on the 17th day of April, 1920, returnable this morning at ten o'clock, (producing notice) and I have reduced this motion to writing and I will read it.

Counsel for L. P. Larson Jr. Company moves the master for an order permitting its accountants, Touche, Niven & Company, to make an examination of the papers, books and

accounts of the Wm. Wrigley Jr. Company for the accounting period covered by the decree entered in said cause touching the matters in issue herein, and to enter upon such examination at once so as to be prepared to give testimony in said cause at as early a day as possible, and that the usual order be entered herein directing the Wm. Wrigley Jr. Company to afford full facilities for such examination and to produce for use by said accountants all books, papers and documents,

661 including letters and sales slips, pertaining to its manufacture and sale of Doublemint gum during the accounting period.

That such examination is sought at this time for two reasons:

First: That it now appears that practically all of the work done by the accountants appointed by the master under the terms of the decree of October 14, 1918, has been done by one, Edward Gledhill, chief accountant for Messrs. Marwick, Mitchell, Peat & Company, and that in the opinion of counsel the facts disclosed by the examination of Mr. Gledhill on June 27, 1919 (Record 2249 to 2307) taken in connection with the conditions of such appointment, as appears in the record (pp. 222-234) and referred to also in the letter of the counsel for L. P. Larson Jr. Company addressed to the master under date of July 9, 1919, (Record 2336-2340) and the answer thereto by counsel for Wm. Wrigley Jr. Company dated January 7, 1920, addressed to the master (Record 2340-2342), are such as to subject any report based upon Mr. Gledhill's work to suspicion. Certainly counsel for the Larson Company are unwilling to accept any report which is based upon Mr. Gledhill's work without independent verification, and counsel's wish is to avoid the delay incident to an examination for such verification after the report of the court's accountants has been received. We don't want to wait until that report comes in.

662 Second: The last clause of the decree entered herein on October 14, 1918, pursuant to the mandate of the United States Circuit Court of Appeals, Seventh Circuit, gives the Larson Company the right which is now sought, and the master has already ruled favorably thereto (Record 1178) when he ruled that Edward R. Burt & Company should be permitted to examine the books for the ascertainment of certain facts.

It is understood that such examination by Touche, Niven & Company will be at the expense of the L. P. Larson Jr.

Company in the first instance, counsel for that company reserving the right to move the master and the court hereafter in the premises in view of the disregard of the conditions governing the appointment of Messrs. Marwick, Mitchell, Peat & Company and their assistants and employes by the executive officers of the Wm. Wrigley Jr. Company and the clear agreements made in their presence and behalf by their counsel with reference thereto.

663 And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court, a copy of certain Testimony taken before the master, page 2413, Vol. VI, in words and figures following to-wit:

664 No objection was made to the granting of the motion of the L. P. Larson Jr. Company entered herein on April 20, 1920, for an order permitting its accountants, Touche, Niven & Company, to make an examination of the books, papers and accounts of the Wm. Wrigley Jr. Company, and so forth, and the motion is granted. The motion is set out in full at page 2390 of this transcript.

546 And on to-wit: the 20th day of March, A. D. 1924, there was filed in the Clerk's office of said court a certain Special Report on Doublemint Accounting 1916-1921, Wm. Wrigley Jr. Company Limited, Toronto, Canada, in words and figures following to-wit:

547 Wm. Wrigley Jr. Company Limited
Toronto, Canada
Special Report on Doublemint Accounting
1916-1921.

(Endorsed) Filed Mar 20, 1924. John H. R. Jamar, Clerk.

Clarkson, Godon & Dilworth Chartered accountants Toronto and Montreal.

548 • • • No. 488 • • •

I, C. B. Morrison, Master in Chancery, do hereby certify that the attached is a true and correct copy of a statement relating to sales of Doublemint Gum in Canada, filed in my

office on April 21, 1922, by Wm. Wrigley Jr. Company under Federal Equity Rule 63.

Dated at Chicago March 20, 1924

C. P. MORRISON
Master in Chancery.

549 * * * No. 488 * * *

The Wm. Wrigley Jr. Company, above named plaintiff, responding to the order of the Master herein to furnish and file with the Master an account of the profits of the Wm. Wrigley Jr. Company, limited, a Canadian corporation, arising from the manufacture and sale of its Doublemint gum in the form of dress, wrappers or labels which was enjoined by the decree of the Court herein, files under protest the attached account and for grounds of protest says;

First: The order of the Master is not warranted by the record or by the order of reference herein.

Second: The said order of the Master was beyond the power and jurisdiction of said court and of said Master to enter.

Third: The entry of said order by said Master requiring the filing of said account by the Wm. Wrigley Jr. Company Limited is not warranted or authorized either by the law or by the evidence.

Fourth: No sales of said Doublemint were made by said Wm. Wrigley Jr. Company, Limited, except under its
550 own name as manufacturer, and in boxes and in wrappers plainly identifying such Doublemint as the product of said Wm. Wrigley Jr. Company, Limited, and no gains or profits have accrued to said Wm. Wrigley Jr. Company, Limited, by reason of its Doublemint gum having been sold in said dress, labels or wrappers, except as said dress, labels or wrappers identified said product with the name, reputation and advertisements of said Wm. Wrigley Jr. Company, Limited; and its predecessors in business, and which gains and profits would equally have accrued to said Wm. Wrigley Jr. Company, Limited, if said Doublemint had been sold in dress, labels or wrappers corresponding in all respects (except said name Doublemint and said trademark Double Spear) with those used by plaintiff and identified with its reputation when the product of L. P. Larson Jr. Company was first placed on the market and for many years theretofore.

Fifth: No Doublemint gum sold by said Wm. Wrigley Jr. Company Limited, was sold as or confused with the L. P. Larson, Jr. Company's Wintermint or any of its products.

Sixth: No competition ever existed between said Wm. Wrigley Jr. Company, Limited, and the L. P. Larson Jr. Company.

Seventh: Not waiving but expressly reserving each and every of the aforesaid objections, together also with all objections heretofore made by plaintiff to the orders of the Master requiring the plaintiff to file accounts herein and expressly subject to each and every one of said objections, the plaintiff says that the statement hereto attached, is, 551 as plaintiff verily believes, a correct account in debit and credit form of all the Doublemint packages of the character referred to in the decree herein, sold by Wm. Wrigley Jr. Company, Limited, and the plaintiff says that so far as it knows or is able to ascertain, none of said packages of Doublemint gum so accounted for in said account of said Wm. Wrigley Jr. Company, Limited, was ever sold or bought as the product of L. P. Larson Jr. Company, but the same were all bought and sold exclusively as the product of said Wm. Wrigley Jr. Company, Limited.

WM. WRIGLEY JR. COMPANY,
By EDWIN W. ECKERLY
Vice-President

State of Illinois } ss:
County of Cook }

EDWARD W. ECKERLY, being first duly sworn, on oath deposes and says that he is the Vice-President of Wm. Wrigley Jr. Company, plaintiff in the above cause; and that according to the best knowledge and belief of this deponent, the said account fully and correctly show all matters therein purported to be shown.

EDWARD E. ECKERLY

Subscribed and sworn to before me, a Notary Public, in and for said Cook County, Illinois, this 21st day of April, A. D. 1922.

ALFRED SCHWEDLIN

552 E. R. C. Clarkson & Sons
Trustees, Receivers, Liquidators
Established 1864

Telephone Adelaide 3630
Cable Address, Clarkson-Toronto
A C C 5th & Western Union Codes
CLARKSON, GORDON & DILWORTH
Chartered Accountants

E. R. C. Clarkson
G. T. Clarkson H. D. Lockhart Gordon
R. J. Dilworth
R. Shiell W. D. Taylor
H. E. Guilfoyle
A. E. Nash A. F. Soutar
C. H. Pelling F. L. Kerr

Offices at
Toronto
& Montreal

Toronto Canada, 18th April 1922

J. Allen Ross, Esq.
Wm. Wrigley Jr. Company, Ldt.,
Carlaw Avenue,
Toronto.

Dear Sir:—

In accordance with your instructions we have examined the books and accounts of Wm. Wrigley Jr. Company, Ltd. and have prepared the attached statements showing the profits and losses made in the manufacture and sale of Doublemint Chewing Gum wrapped in the green wrapper, for the period 21st December 1915 to 19th October 1921, both inclusive.

In preparing these accounts we have measured all advertisements produced and as instructed have apportioned the cost by charging Doublemint and the other gums with the exact amount of space occupied by the picture of each package and by dividing the costs of the remainder of the space equally among all the gums advertised.

In cases where actual advertisements were not produced, the cost of advertising has been apportioned equally amongst the different gums covered by the invoices or contracts.

In cases where invoices were lost or could not be produced no charge against Doublemint has been made.

Salaries and expenses of detail men, and the expenses of circularizing the trade have been apportioned equally amongst the gums advertised in the period in which those expenses were incurred.

We have not included in the cost of Doublemint any interest or depreciation on Patents or Patent Rights.

553 The costs of manufacturing have been arrived at by an actual analysis of the records kept of materials and supplies used in the different brands of gum, with the exception that factory wages, factory expenses, depreciation etc. and certain materials and supplies used in the manufacture of all gums have been apportioned between Doublemint and the other gums, on the basis of production.

Any charges against the profits of your company shown on the Company's accounts which might possibly be challenged as not directly affecting the manufacture and sale of Doublemint gum have been eliminated.

For this reason the following have been eliminated:

Alterations and additions to Buildings	$27,263.71
Excessive cost of Building	44,298.11
Depreciation on Plant and Machinery reduction from 20% to 10%	53,412.93
Experimental Plant Expenses	11,120.42
Incoporation Expenses	700.00
Reserve for Bad Debts	12,000.00
Some advertising charges for which invoices were missing or where reference to Doublemint could not be found	9,787.38
Loss in value of Chicle	62,880.21
	$221,462.76

Since no physical inventories were made on the 19th October 1921, the book inventories of stocks on hand at 30th September 1921, and 31st October 1921, and the company's financial statement of 20th December 1921 were taken as a basis, and charges which could not be definitely ascertained averaged by days over the month of October or the whole of the company's financial year, as the case might be.

Subject to the foregoing, we certify that, in our opinion, the attached statements are properly drawn up so as to fairly and accurately set forth the profits or losses on the manufacture and sale of Doublemint Chewing Gum wrapped in the green wrapper, from 21st December 1915 to 19th October 1921, both inclusive.

Yours faithfully,
CLARKSON, GORDON & DILWORTH

HDLG/AEN/McG.
K.

554 WM. WRIGLEY JR. COMPANY LIMITED

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PROFIT AND LOSS STATEMENT OF DOUBLEMINT CHEWING GUM

21st December 1915 to 19th October 1921

Year	Profit	Loss
1916		$ 2,897.95
1917	$11,414.55	
1918	15,379.99	
1919	12,478.61	
1920		38,126.86
1921 (to 19th October	11,333.35	
Supplementary		8,177.35
	$50,606.50	$49,202.16
Profit for Whole Period		1,404.34
	$50,606.50	$50,606.50

557 WM. WRIGLEY JR. COMPANY LIMITED

PROFIT AND LOSS STATEMENT OF DOUBLEMINT CHEWING GUM 21ST DECEMBER 1915 TO 20TH DECEMBER 1916, BOTH DATES INCLUSIVE

Debits		Credits	
		Sales	Amount
Manufacturing Cost,—			
7,892 Boxes @ 22c	$ 1,736.24	262,081	$133,862.14
254,189 " @ 19.6611c	49,976.35	Boxes	
	$ 51,712.59		
Overhead based on proportion of Doublemint Gum Sales to all Sales of Gum—	21,448.55		
Advertising chargeable to Doublemint	58,844.27		
	132,005.41		
Proportion of Interest on Capital invested in business, less gross Rentals received	4,290.50		
Business Profits Tax	464.18		
Loss for the year			2,897.95
	$ 136,760.09		$ 136,760.09

558 WM. WRIGLEY JR. COMPANY LIMITED

PROFIT AND LOSS STATEMENT OF DOUBLEMINT CHEWING GUM 21ST DECEMBER 1916 TO 20TH DECEMBER 1917, BOTH DATES INCLUSIVE

Debits		Credits	
		Sales	Amount
Manufacturing Cost,—			
11,897 Boxes @ 19.6611c	$ 2,339.08	315,918	$ 163,927.57
304,021 " @ 20.9923c	63,821.00	Boxes	
	$ 66,160.08		
Overhead based on proportion of Doublemint Gum sales to All Sales of Gum	30,667.47		
Advertising chargeable to Doublemint	50,371.53		
	147,199.08		
Proportion of Interest on Capital invested in business, less gross rentals received	1,131.82		
Business Profits Tax	4,182.12		
Profit for the year	11,414.55		
	$ 163,927.57		$ 163,927.57

559 WM. WRIGLEY JR. COMPANY LIMITED

PROFIT AND LOSS STATEMENT OF DOUBLEMINT CHEWING GUM 21ST DECEMBER 1917 TO 20TH DECEMBER 1918, BOTH DATES INCLUSIVE

Debits		Credits	
		Sales	Amount
Manufacturing Cost,—			
13,537 Boxes @ 20.9923c	$ 2,841.73	397,907	$ 216,613.59
384,370 " @ 25.4125c	97,678.03	Boxes	
	$ 100,519.76		
Overhead based on proportion of Doublemint Gum sales to all Sales of Gum—	37,236.54		
Advertising chargeable to Doublemint	46,745.73		
	$ 184,502.03		
Proportion of Interest on Capital Invested in business, less gross rentals and interest on Investments	675.79		
Business Profits Tax	16,055.78		
Profit for the year	15,379.99		
	$ 216,613.59		$ 216,613.59

560 WM. WRIGLEY JR. COMPANY LIMITED

PROFIT AND LOSS STATEMENT OF DOUBLEMINT CHEWING GUM 21ST DECEMBER 1918 TO 20TH DECEMBER 1919, BOTH DATES INCLUSIVE

Debits			Credits Sales	Amount
Manufacturing Cost,—				
8,110 Boxes @ 25.4125c	$ 2,060.95		461,239	$ 255,963.44
453,129 " @ 29.6243c	134,236.29		Boxes	
	$ 136,297.24			
Overhead based on proportion of Doublemint Gum Sales to all Sales of Gum	48,060.10			
Advertising chargeable to Doublemint	56,894.26			
	241,251.60			
Proportion of Interest on Capital invested in business, less gross rentals and interest on Investments	688.49			
Income Tax	1,544.74			
Profit for the year	12,478.61			
	$ 255,963.44			$ 255,963.44

561 WM. WRIGLEY JR. COMPANY LIMITED

PROFT AND LOSS STATEMENT OF DOUBLEMINT CHEWING GUM 21ST DECEMBER 1919 TO 29TH DECEMBER 1920, BOTH DATES INCLUSIVE

DEBITS			CREDITS	
Manufacturing Cost,—				
34,849 Boxes @ 29.6243c	$ 10,323.77		412,511	$228,112.58
377,662 " @ 43.9398c	165,943.93		Boxes	
	$176,267.70			
Overhead based on proportion of Doublemint Gum Sales to all Sales of Gum—	49,911.30			
Advertising chargeable to Doublemint	40,899.75			
Proportion of Interest on Capital Invested in business, less gross rentals and Interest on Investments				839.31
Loss for the year				38,126.86
	$267,078.75			$267,078.75

562 WM. WRIGLEY JR. COMPANY LIMITED

PROFT AND LOSS STATEMENT OF DOUBLEMINT CHEWING GUM 21ST DECEMBER 1902 TO 19TH OCTOBER 1921, BOTH DATES INCLUSIVE.

DEBITS		CREDITS	
		Sales	Amount
Manufacturing Cost,—			
28,914 Boxes @ 43.9398c	$ 12,704.75	379,033	$209,622.65
350,119 @ 29.3945c	102,915.73	Boxes	
	$115,620.48		
Overhead based on proportion of Doublemint Gum Sales to all Sales of Gum—	46,532.11		
Advertising chargeable to Doublemint	34,240.62		
	$196,393.21		
Proportion of Interst on Capital invested in business, less gross rentals and interest on investments	507.00		
Income Tax	1,389.09		
Profit for the year	11,333.35		
	$209,622.65		$209,622.65

563 WM. WRIGLEY JR. COMPANY LIMITED

SUPPLEMENTARY PROFIT AND LOSS STATEMENT OF DOUBLEMINT CHEWING GUM ON HAND 19TH OCTOBER 1921

DEBITS		CREDITS	
		Sales	Amount
Manufacturing Cost,—			
50,715 Boxes @ 29,3945c	$14,907.42	50,715 Boxes @ 55 cents	$27,893.25
Overhead at same rate per box as in period 21st December 1920 to 19th October, 1921— 11.788 cents	5,978.28		
Interest on Capital at same rate per box as in period 21st December 1920 to 19th October, 1921— .3376 cents	67.84		
Material scrapped since discontinuation of Green Wrappers, less Scrap Value	15,117.06		
Loss			8,177.35
	$36,070.60		$ $36,070.60

564 WM. WRIGLEY JR. COMPANY LIMITED

RECONCILIATION OF SALES OF DOUBLEMINT CHEWING GUM

Year 1916

Inventory 20 Dec/15		7892	Boxes	
Manufactured during year		268150	"	
		276042	"	
Less: Inventory 20 Dec./16		11897	"	
Deliveries from Factory Department to Shipping Department		264145	"	
Less: Returns to Kettles		1935	"	
Net total to Shipping Department		262210	"	
Less: Gum given away in lieu of Freight and Express charges		129	"	
Distributed for sale as follows		262081	"	Net
At other than List Price	29112½ Boxes			$ 12,718.52
At List Price	232968½ "			121,143.62
	262081 "			$133,862.14

565 WM. WRIGLEY JR. COMPANY LIMITED

RECONCILIATION OF SALES OF DOUBLEMINT CHEWING GUM

Year 1917

Inventory 20th December 1916		11897	Boxes	
Manufactured during year		318598	"	
		330495	"	
Less: Inventory 20th December 1917		13537	"	
Deliveries from Factory Department to Shipping Department		316958	"	
Less: Returns to Kettles		839	"	
Net total to Shipping Department		316119	"	
Less: Gum given away in lieu of Freight and Express charges		201	"	
Distributed for Sales as follows		315918	"	
At other than List Price	22,356 Boxes			$ 11,166.62
At List Price	293,562 "			152,760.95
	315,918 "			$163,927.57

566 WM. WRIGLEY JR. COMPANY LIMITED

RECONCILIATION OF SALES OF DOUBLEMINT CHEWING GUM

Year 1918

Inventory 20th December 1917		13,537 Boxes	
Manufactured during year		392,639 "	
		406,176 "	
Less Inventory 20th Dec. 1918		8,110 "	
Deliveries from Factory Department to Shipping Department		398,066 "	
Less Return to Kettles		100 "	
Net Total to Shipping Department		397,966 "	
Less Gum Given away in lieu of Freight & Express charges		59 "	
Distributed for sales as follows		397,907 "	
At other than List Price	26,743 Boxes		$ 13,232.26
At List Price	371,164 "		203,381.33
	597,907 "		$216,613.59

567 WM. WRIGLEY JR. COMPANY LIMITED

RECONCILIATION OF SALES OF DOUBLEMINT CHEWING GUM

Year 1919

Inventory 20th December 1918		8,110 Boxes	
Manufactured during year		489,348 "	
		497,458 "	
Less Inventory 20 December 1919		34,849 "	
Deliveries from Factory Department to Shipping Department		462,609 "	
Less Return to Kettles		1,342 "	
		461,267 "	
Less Gum Given away in lieu of Freight & Express Charges		28 "	
Distributed for Sales as Follows:		461,239 "	
At other than List Price	5,360 Boxes		$ 2,682.05
At List Price	455,879 "		253,281.39
	461,239 "		$255,963.44

568 WM. WRIGLEY JR. COMPANY LIMITED

RECONCILIATION OF SALES OF DOUBLEMINT CHEWING GUM

Year 1920.

Inventory 20th December 1919		34,849 Boxes	
Manufactured during year		412,424 "	
		447,273 "	
Less Inventory 20th December 1920		28,914 "	
Deliveries from Factory Department to Shipping Department		418,359 "	
Less Returns to Kettles		5,844 "	
		412,515 "	
Less Gum Given Away in lieu of Freight and Express Charges		4 "	
Distributed for Sales as follows:		412,511 "	
Sold at other than List price	2,740 Boxes		$ 1,233.26
" " List Price	409,771 "		226,879.32
	412,511 "		$228,112.58

569 WM. WRIGLEY JR. COMPANY LIMITED

RECONCILIATION OF SALES OF DOUBLEMINT CHEWING GUM

Period 21st Dec. 1920 to 19th Oct. 1921

Inventory 20th December 1920		28,914 Boxes	
Manufactured during period		392,562 "	
		421,476 "	
Less Inventory Oct. 19th 1921		41,348 "	
Deliveries from Factory Department to Shipping Department		380,128 "	
Less Returns to Kettles		1,084 "	
		379,044 "	
Less Gum given away in lieu of Freight and Expesss Charges		11 "	
Distributed for Sales as follows:		379,033 "	
Sold at other than List Price	988 Boxes		$ 515,32
" " List Price	378,045 "		209,107.33
	379,033 "		$209,622.65

570 WM. WRIGLEY JR. COMPANY LIMITED

SUMMARY OF SALES OF DOUBLEMINT CHEWING GUM

From 21st December 1915 to October 19th 1921 Inclusive

Year	Total Boxes	Total Amount
1916	262,081	$ 133,862.14
1917	315,918	163,927.57
1918	397,907	216,613.59
1919	461,239	255,963.44
1920	412,511	228,112.58
1921 to 19th Oct.	379,033	209,622.65
TOTAL	2,228,689	$1,208,101.97
Inventory on hand 19th October 1921 —	50,715 at 55 cents	27,893.25
GRAND TOTAL	2,279,404 Boxes	$1,235,995.22

571 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT OF DISPOSITION OF DOUBLEMINT CHEWING GUM

1916 - 1921

BOXES

Date	From Factory	Returned to Kettles	Given Away	Total Sold
1916	264,145	1,935	129	262,081
1917	316,958	839	201	315,918
1918	298,066	100	59	397,907
1919	462,609	1,342	28	461,239
1920	418,359	5,844	4	412,511
1921	380,128	1,084	11	379,033
Total	2,240,265	11,144	432	2,228,689

572 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT SHOWING PRODUCTION—INVENTORY AND SALES ETC. IN BOXES OF DOUBLEMINT CHEWING GUM 1916—1921

	Produced			Accounted for By			
	On Hand at Commencement of each Accounting Period	Net Production	Total	Sales	Given Away	On Hand at end of each Accounting Period	Total
1916	7,892	266,215	274,107	262,081	129	11,897	274,107
1917	11,897	317,759	329,656	315,918	201	13,537	329,656
1918	13,537	392,539	406,076	397,907	59	8,110	406,076
1919	8,110	488,006	496,116	461,239	28	34,849	496,116
1920	34,849	406,580	441,429	412,511	4	28,914	441,429
1921	28,914	391,478	420,392	379,033	11	41,348	420,392
Totals	105,199	2,262,577	2,367,776	2,228,689	432	138,655	2,367,776

573 WM. WRIGLEY JR. COMPANY LIMITED

DOUBLEMINT MANUFACTURING ACCOUNT

For Year Ending 20th December 1916

Product in course of manufacture 20th December 1915 (2 batches)		$ 241.75
Materials Used:		
Chicle	$20,518.55	
Essential Oils	5,787.11	
Glucose	1,097.64	
Glycerine	385.98	
Starch	36.30	
Sugar	9,056.28	
American Exchange	165.81	
Miscellaneous	424.11	37,471.78
		$37,713.53
Less: Product in course of manufacture 20th December 1916		273.77
		$37,439.76
Supplies Used:		
Wax Paper	$ 1,741.10	
Wrappers	1,398.52	
Counterbands	749.90	
Box Labels	814.44	
Paper boxes	3,634.57	8,338.53
Factory wages		3,453.82
Factory Expense		429.36
Shipping Expense		1,473.72
Depreciations: Plant and Machinery—10%		866.21
Depreciation of Building (Factory portion only) 3% p. a.		480.15
Less: sale of scrap, packages, etc.		*140.69*
Total Manufacturing Cost		52,340.86
Number of Boxes manufactured		266,215
Cost per Box		19.6611 cents

574 WM. WRIGLEY JR. COMPANY LIMITED

DOUBLEMINT MANUFACTURING ACCOUNT

For Year Ending 20th December 1917

Product in Course of Manufacture 20th December 1916		$ 273.77
Materials Used:		
Chicle	$24,893.86	
Essential Oil	4,438.81	
Glucose	1,899.42	
Glycerine	226.36	
Starch	44.38	
Sugar	12,197.38	
American Exchange	206.53	
Miscellaneous	419.55	44,326.29
		$44,600.06
Less: Product in Course of Manufacture 20th December 1917		240.11
		$44,359.95
Supplies Used:		
Wax Paper	$ 3,337.85	
Wrappers	3,112.42	
Counterbands	1,347.52	
Box Labels	82.32	
Paper Boxes	6,715.38	14,595.49
Factory Wages		3,994.65
Factory Expense		610.55
Shipping Boxes		1,823.17
Depreciation: Plant & Machinery—10%		1,048.98
Depreciation of Building (Factory Portion only) 3% p. a.		454.11
Less: Sale of Scrap, Packages, etc.		*181.98*
Total Manufacturing Cost		$66,704.92
Number of Boxes Manufactured		317,759
Cost per box		20.9923 cents

575 WM. WRIGLEY JR. COMPANY LIMITED

DOUBLEMINT MANUFACTURING ACCOUNT

For Year Ending 20th December 1918

Product in course of manufacture 20th December 1917		$ 240.11
Materials Used:		
Chicle	$37,064.87	
Essential Oil	9,663.22	
Glucose	2,535.92	
Glycerine	181.77	
Starch	75.90	
Sugar	16,414.73	
American Exchange	1,861.35	
Miscellaneous	477.51	
	$68,277.27	
Less: Customers Drawback	112.92	68,164.35
		$68,404.46
Less: Product in course of manufacture 20th December 1918		18.53
		$68,385.93
Supplies Used:		
Wax Paper	4,604.45	
Wrappers	5,002.26	
Counterbands	1,541.67	
Box Labels	2,132.02	
Paper Boxes	7,534.12	20,814.52
Factory Wages		5,786.31
Factory expense		387.76
Shipping Boxes		3,159.79
Depreciation: Plant and Machinery 10%		1,065.14
Depreciation of Building (Factory portion only) 3% p. a.		447.61
Less: Sale of Scrap, Packages, etc.		*293.20*
		$99,753.86
Number of boxes manufactured		392,539
Cost per Box		25.4125 cents

576 WM. WRIGLEY JR. COMPANY LIMITED

DOUBLEMINT MANUFACTURING ACCOUNT

For Year Ending 20th December 1919

Product in Course of Manufacture 20th December 1918		$ 18.53
Materials Used:		
Chicle	$ 47,593.29	
Essential Oils	19,719.90	
Glucose	3,054.60	
Glycerine	.59	
Starch	32.82	
Sugar	22,550.96	
American Exchange	8,248.32	
Miscellaneous	663.69	
	$101,864.17	
Less: Customs Drawback	56.88	101,807.29
		101,825.82
Less: Product in Course of Manufacture 20th December 1919		593.78
		101,232.04
Supplies Used:		
Wax paper	$ 5,659.41	
Wrappers	7,020.90	
Counterbands	1,338.74	
Box Labels	2,459.91	
Paper Boxes	9,414.29	25,893.25
Repairs and Renewals		329.63
Factory Wages		9,628.34
Factory Expenses		1,350.77
Shipping Expenses		506.79
" Boxes		4,113.40
Depreciation of Plant & Machinery—10% only		1,790.13
Depreciation on Building (Factory portion only)—3% p. a.		525.34
Less: Sale of Scrap, Package, etc.	$ 334.07	
Less: Transferred to "B" Plant for Experimental Purpose	467.48	*801.55*
Total Manufacturing Cost		$144,568.14
Number of Boxes Manufactured		488,006
Cost per Box		29.6243 Cents

577 WM. WRIGLEY JR. COMPANY LIMITED

DOUBLEMINT MANUFACTURING ACCOUNT

For Year Ending 20th December 1920

Product in Course of Manufacture 20th December 1919		$ 593.78
Materials Used:		
Chicle	$ 56,747.12	
Essential Oil	27,722.88	
Glucose	3,437.78	
Starch	48.92	
Sugar	35,071.64	
Miscellaneous	829.90	
American Exchange	8,164.11	$132,022.35
		$132,616.13
Less: Product in Course of Manufacture 20th December 1920—		1,256.50
		$131,359.63
Supplies Used:		
Wax Paper	6,715.56	
Wrappers	7,379.28	
Counterband	1,394.81	
Box Labels	2,229.04	
Paper Boxes	8,717.23	26,435.92
Factory Wages		13,127.15
Factory Expenses		1,735.30
Shipping Expense		307.99
" Boxes		3,134.68
Welfare Expense		188.74
Depreciation: Plant & Machinery—10%		2,196.56
Depreciation on Building (Factory portion only) 3% P. A.		725.81
Less: Sale of Scrap, Packages, etc.		*561.50*
Total Manufacturing Cost		$178,650.28
Number of Boxes Manufactured		406,580
Cost per box		43.9398 cents

578 WM. WRIGLEY JR. COMPANY LIMITED

DOUBLEMINT MANUFACTURING ACCOUNT

For Period 21st December 1920 to 19th October 1921

Product in course of manufacture 20th December 1920		$ 1,256.50
Materials used:—		
Chicle	$36,128.60	
Essential oil	13,620.44	
Glucose	1,641.66	
Starch	62.11	
Sugar	17,294.08	
Miscellaneous	334.64	
American Exchange	1,820.53	
Overseas gum	443.02	$ 71,345.08
		$ 72,601.58
Less: Product in course of manufacture 19th October 1921		671.50
		$ 71,930.08
Supplied used:—		
Wax paper	$ 5,082.82	
Wrappers	7,941.80	
Counterbands	1,608.55	
Paper boxes (including Box Labels)	11,754.39	26,387.56
		$ 98,317.64
Factory wages		10,478.48
Factory Expense		1,259.00
Shipping Boxes & Expenses		2,808.87
Welfare Expense		224.85
Depreciation: Plant & Machinery 10%		1,691.62
Depreciation on Building (Factory portion only) 2½% P. A.		436.63
Depreciation on Club House		389.89
Less: Sale of Scrap Packages & c.		*534.14*
Total Manufacturing Cost		$115,072.84
No. of boxes manufactured		391,478
Cost per box		29.3945 Cents

579 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT OF GENERAL AND OVERHEAD EXPENSES

21st December 1915 to 20th December 1916

Bad Debts	$ 724.33	
Stamps	7,655.62	
Discounts	13,260.33	
Interest	3,076.61	
Freight outwards	19,327.75	
Express and Teaming	2,990.33	
Administration	12,008.85	
Office Salaries	14,121.23	
Insurance	455.59	
Depreciation on Equipment & Motor Car	1,978.99	
do. Building (proportion)	4,684.72	
Donations for advertising purposes	2,407.42	
Rent—Branch Premises	1,305.00	
Travelling Expenses	1,329.55	
Printing and Stationery	1,940.14	
Miscellaneous Expenses	5,286.23	
Maintenance of Building	7,531.60	
Gum given away in lieu of Freight Charges— (37,041 boxes @ 15.75 cents)	5,833.96	$105,918.25
Merchandise Purchases and Expenses	$86,532.90	
Less: Merchandise Sales and Sundries	72,487.44	14,045.46
		$119,963.71
Percentage of Doublemint Sales to all Gum Sales–17.8792		
Doublemint Proportion of Overhead		$ 21,448.55

580 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT OF GENERAL AND OVERHEAD EXPENSE

21st December 1916 to 20th December 1917

Bad debts	$ 400.73	
Stamps	6,682.96	
Discounts	16,520.02	
Interest	6,134.26	
Freight outwards	25,855.75	
Express and Teaming	3,777.47	
Administration	44,959.87	
Office Salaries	23,600.88	
Insurance	1,217.25	
Depreciation on Equipment and Motor Cars	1,433.27	
do. " Building (proportion)	13,841.69	
Motor Truck Expense	505.76	
Donations for advertising purposes	4,040.61	
Rent—Branch Premises	2,370.00	
Travelling Expenses	2,307.84	
Printing and Stationery	933.41	
Miscellaneous Expense	5,629.53	
Maintenance of Building	26,665.17	
Gum given away in lieu of Freight charges (38719 boxes @ 16.125 cents)	6,243.44	$193,119.91
Merchandise sales and sundries	99,089.06	
Less: Merchandise purchases and expenses	97,990.31	1,098.75
		$192,021.16
Percentage of Doublemint Sales to all Gum Sales 15,8262		
Doublemint proportion of Overhead		30,389.65
Doublemint proportion of Duty and Shipping Charges on Newfoundland Shipments		277.82
		$ 30,667.47

581 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT OF GENERAL AND OVERHEAD EXPENSES

21st December 1917 to 20th December 1918

Bad Debts	$ 401.77	
Stamps	3,374.12	
Discounts	22,057.27	
Interest	11,984.50	
Freight outwards	33,044.63	
Express and Teaming	3,330.46	
Administration	64,538.93	
Office Salaries	30,425.86	
Insurance	1,643.31	
Depreciation on Equipment and Motor Car @ 10% p. a.	3,263.31	
do. on Building (proportion) @ 3% p. a.	12,551.06	
Motor Truck Expense	2,200.12	
Donations for advertising purposes	5,121.85	
Rent—Branch Premises	3,524.18	
Travelling Expenses	5,167.81	
Printing and Stationery	6,248.44	
Miscellaneous Expenses	9,228.00	
Maintenance Building	33,672.90	
Gum given away in lieu of freight charges—(24,269 boxes @ 18.75 cents)—	4,550.44	$256,328.96
Merchandise Sales and Sundries	$97,520.21	
Less: Merchandise Purchases and Expenses	94,905.27	2,614.94
		$253,714.02
Percentage of Doublemint Sales to all Gum Sales	14.0841	
Doublemint Proportion of Overhead		$35,733.34
Doublemint proportion of duty and shipping charges on Newfoundland Shipments		1,503.20
		$ 37,236.54

582 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT OF GENERAL AND OVERHEAD EXPENSES

21st December 1918 to 20th December 1919

Bad Debts	$ 1,137.59	
Stamps	5,874.02	
Discounts	23,713.71	
Interest	17,520.16	
Freight outwards	38,200.45	
Express and Teaming	3,831.72	
Administration	75,567.12	
Office Salaries	39,182.95	
Insurance	2,327.04	
Depreciation on Equipment and Motor Cars @ 10% p. a.	3,677.97	
do. on Building (proportion) @ 3% p. a.	11,256.91	
Motor Truck Expense	2,341.83	
Donations for advertising purposes	5,535.75	
Rent—Branch Premises	3,592.18	
Travelling Expenses	2,931.32	
Printing and Stationery	2,705.93	
Miscellaneous Expenses	8,146.02	
Maintenance of Building	41,583.66	
Gum given away in lieu of Freight Charges (25012 boxes @ 21 cents)	5,252.52	
		$294,378.85
Merchandise Sales and Sundries	$89,153.84	
Less: Merchandise Purchases & Expenses	66,601.01	22,552.83
		$271,826.02
Percentage of Doublemint Sales to All Gum Sales	16.1154	
Doublemint Proportion of Overhead		43,805.85
Doublemint proportion of Duty and Shipping charges on Newfoundland Shipments		4,254.25
		$ 48,060.10

583 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT OF GENERAL AND OVERHEAD EXPENSES

21st December 1919 to 20th December 1920

Bad Debts	$ 632.12	
Stamps	5,761.19	
Discounts	10,101.48	
Interest	28,085.51	
Freight outwards	42,522.36	
Express and teaming	4,499.76	
Administration	61,183.94	
Office Salaries	38,332.16	
Insurance	3,257.51	
Loss on sale of Victory Bonds	3,300.00	
Depreciation Equipment and Motor Car @ 10% p. a.	3,405.10	
do. Building (proportion) @ 3% p. a.	10,624.01	
Motor Truck Expense	2,805.08	
Donations for advertising purposes	4,112.52	
Rent—Branch Premises	4,255.50	
Travelling Expenses	3,648.47	
Printing and Stationery	4,637.68	
Miscellaneous Expenses	7,566.15	
Maintenance of Building	46,327.78	
Gum given away in lieu of Freight Charges (14,681 Boxes at 21 cents)	3,083.01	$288,141.33
Merchandise Purchases and Expenses	$82,030.03	
Less: Merchandise Sales and Sundries	76,461.21	5,568.82
		$293,710.15
Percentage of Doublemint Sales to all Gum Sales—	16.2755	
Doublemint Proportion of Overhead—		$ 47,802.80
Doublemint proportion of Duty and Shipping Charges on Newfoundland Shipments		2,108.50
		$ 49,911.30

584 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT OF GENERAL AND OVERHEAD EXPENSES

21st December 1920 to 20th December 1921

Bad Debts	$ 824.45	
Stamps	10,833.06	
Discounts (see below)		
Interest	17,123.04	
Freight outwards	61,452.98	
Express and Teaming	2,519.17	
Administration	74,281.92	
Office Salaries	39,631.37	
Insurance	3,514.52	
Loss on sale of Victory Bonds	15,476.65	
Depreciation on Equipment and Motor Car @ 10%	4,000.83	
" " Building (proportion)	8,818.80	
Motor Truck Expense	3,815.80	
Donations for advertising purposes	2,471.71	
Rent—Branch premises	2,795.00	
Travelling Expenses	4,716.38	
Printing and Stationery	1,002.73	
Miscellaneous Expenses	11,066.63	
Maintenance of Building	40,399.23	
Gum given away in lieu of freight charges (14935 boxes at 21 cents)	3,136.35	
Discount received less allowed	*542.39*	$307,338.23
Merchandise purchases and expenses	$176,647.06	
Less: Merchandise Sales and Sundries	135,957.52	40,689.54
Total for year		$348,027.77
Total for 302 days to 19th October 1921		287,957.21
Percentage of Doublemint Sales to all Gum Sales 15.5163		
Doublemint proportion of Overhead		$ 44,680.30
Doublemint proportion of Duty and shipping charges on Newfoundland shipments		1,851.81
		$ 46,532.11

585 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT SHOWING HOW PROPORTION OF INTEREST ON CAPITAL INVESTED IN THE BUSINESS IS ASCERTAINED FOR 1916

	20th December 1915		20th December 1916	
Assets				
Real Estate and Buildings	$252,818.11		$376,631.83	
Machinery and Equipment	43,575.38		64,556.39	
Cash on hand and in Bank	63,692.83		9,161.17	
Accounts Receivable	67,449.40		82,970.55	
Merchandise & Supplies on hand	172,388.64		210,749.89	
Other Assets		$599,924.36	1,158.89	$ 745,228.72
Deduct Liabilities				
Accounts and Bills Payable	$ 99,924.36		$ 63,532.92	
Business Profits War Taxes 1916	—		29,024.93	
Reserves for Depreciation on Buildings	—		7,340.40	
Machinery and Equipment	—		6,769.95	
		99,924.36		106,668.20
Net Capital Invested		$500,000.00		$ 638,560.52
				500,000.00
				2)$1,138,560.52
Average Capital for the year ending 20th December 1916				$ 569,280.26
Interest on $569,280.26 @ 7%				$ 39,849.62
Deduct Gross Rentals from Tenants				15,592.64
Interest received on Investments				— —
				$ 24,256.98
Proportion of Doublemint production to All Gum production—17.6877%				$ 4,290.50

586 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT SHOWING HOW PROPORTION OF INTEREST ON CAPITAL INVESTED IN THE BUSINESS IS ASCERTAINED FOR 1917

	20th December 1916		20th December 1917	
Assets				
Real Estate & Buildings	$376,631.83		$531,876.34	
Machinery & Equipment	64,556.39		86,279.43	
Cash on hand & in Bank	9,161.17		55,912.75	
Accounts Receivable	82,970.55		151,729.40	
Merchandise & Supplies on hand	210,749.89		273,849.04	
Dominion of Canada Bonds			11,000.00	
Other Assets	1,158.89	$745,228.72	5,116.82	$1,115,763.78
Deduct Liabilities				
Accounts and Bills Payable	63,532.92		$234,689.63	
Business Profits War Tax 1916	29,024.93		29,024.93	
1917			24,424.96	
Reserves for Depreciation:				
Machinery & Equipment	6,769.95		15,397.89	
Buildings	7,340.40	106,668.20	24,296.69	327,834.10
		$638,560.52		$787,929.68
				638,560.52
				2)$1,426,490.20
Average Capital, for the year ending 20th December 1917				$ 713,245.10
Interest on $713,245.10 @ 7%				$ 49,927.16
Deduct Gross Rentals from Tenants				42,314.64
Interest received on Investments				—
				$ 7,612.52
Proportion of Doublemint production to all Gum Production 14.8679}				$1,131.82

587 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT SHOWING HOW PROPORTION OF INTEREST ON CAPITAL INVESTED IN THE BUSINESS IS ASCERTAINED FOR 1918

	20th December 1917		20th December 1918	
ASSETS				
Real Estate and Buildings	$531,876.34		$535,484.04	
Machinery and Equipment	86,279.43		107,689.68	
Cash on Hand and in Bank	55,912.75		137,959.17	
Accounts Receivable	151,729.40		114,692.46	
Merchandise & Samples on hand	273,849.04		310,493.45	
Dominion of Canada Bonds	11,000.00		159,700.00	
		$1,115,763.78		
Other Assets	5,116.82		1,619.26	$1,367,638.06
DEDUCT: LIABILITIES				
Accounts and Bills Payable	$234,689.63		167,410.90	
Business Profits War Tax–1916	29,024.93		29,024.93	
1917	24,424.96		24,424.96	
1918	—		71,169.18	
Reserves for Depreciation:				
Buildings	24,296.69		40,361.21	
Machinery & Equipment	15,397.89	$327,834.10	27,921.78	$359,412.96
Net Capital Invested		$787,929.68		$1,008,225.10
				787,929.68
				2)$1,796,154.78
Average Capital for the year ending 20th December 1918—				$898,077.39
Interest on $898,077.39@ 7%				$62,865.42
Deduct: Gross Rentals from Tenants			$ 51,624.50	
Interest received on Investments			6,143.50	57,768.00
				$ 5,097.42
Proportion of Doublemint production to All Gum production—13.2575%				675.79

588 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT SHOWING HOW PROPORTION OF INTEREST ON CAPITAL INVESTED IN THE BUSINESS IS ASCERTAINED FOR 1919

	20th December 1918		20th December 1919	
ASSETS				
Real Estate and Building	$535,484.04		$535,715.10	
Machinery and Equipment	107,689.68		147,374.92	
Cash on hand and in bank	137,959.17		9,532.46	
Accounts Receivable	114,692.46		116,277.83	
Merchandise and Supplies on hand	310,493.45		560,272.90	
Dominion of Canada Bonds	159,700.00		476,706.07	
		$1,367,638.06		
Other Assets	1,619.26		1,593.78	$1,847,473.06
DEDUCT LIABILITIES				
Accounts and Bills Payable	167,410.90		505,482.27	
1916	29,024.93		29,024.93	
Business Profits War 1917	24,424.96		24,424.96	
Tax 1918	71,169.18		71,169.18	
1919			33,498.66	
Reserves for Depreciation:				
Buildings	40,361.21		55,148.66	
Machinery and Equipment	27,021.78		42,730.20	
		359,412.96		761,478.86
Net Capital Invested		$1,008,225.10		1,085,994.20
				1,008,225.10
				2) 2,094,219.30
Average Capital for the year ending 20th December 1919				$1,047,109.65
Interest on $1,047,109.65 @ 7%				73,297.67
Deduct gross Rentals from Tenants			52,547.92	
Interest received on Investments			16,189.25	68,737.17
				$ 4,560.50
Proportion of Doublemint production to all Gum production - - 15.0967%				$ 688.49

589 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT SHOWING HOW PROPORTION OF INTEREST ON CAPITAL INVESTED IN THE BUSINESS IS ASCERTAINED FOR 1920

	20th December 1919		20th December 1920	
ASSETS				
Real Estate and Building	$535,715.10		$ 535,715.10	
Machinery and Equipment	147,374.92		161,377.19	
Cash on hand and in Bank	9,532.46		60,268.76	
Accounts Receivable	116,277.83		209,291.74	
Merchandise & Supplies on hand	560,272.90		439,889.43	
Dominion of Canada and other Bonds	476,706.07		368,732.53	
Other Assets	1,593.78	$1,847,473.06	1,541.80	$1,776,816.55
DEDUCT: LIABILITIES				
Accounts and Bills Payable	$505,482.27		$ 592,719.41	
Business Profits War Tax—				
1916	29,024.93		—	
1917	24,424.96		—	
1918	71,169.18		—	
1919	33,498.66		—	
Reserves for Depreciation:				
Buildings	55,148.66		69,965.66	
Machinery & Equipment	42,730.20	761,478.86	58,824.84	721,509.91
Net Capital Invested		$1,085,994.20		$1,055,306.64
				1,085,994.20
				2)2,141,300.84
Average Capital for the year ending 20th December 1920—				$1,070,650.42
Interest on $1,070,650.42 @ 7%				$ 74,945.53
Deduct: Gross Rentals from Tenants			$ 55,069.12	
Interest received on Investments			25,232.90	80,302.02
				5,356.49
Proportion of Doublemint production ot all Gum production			15.6691%	*839.31*

590 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT SHOWING HOW PROPORTION OF INTEREST ON CAPITAL INVESTED IN THE BUSINESS IS ASCERTAINED FOR 1921

	20th December 1920		20th December 1921	
ASSETS				
Real Estate and Building	$535,715.10		$ 613,722.92	
Machinery and Equipment	161,377.19		168,685.98	
Cash on hand and in Bank	60,268.76		27,076.40	
Accounts Receivable	209,291.74		158,779.77	
Merchandise and Supplies on hand	439,889.43		448,516.52	
Dominion of Canada and other bonds	368,732.53		85.38	
Other Assets	1,541.80	$1,776,816.55	1,647.33	$1,418,514.30
DEDUCT LIABILITIES:				
Accounts and Bills Payable	592,719.41		47,124.45	
Reserve for Income War Tax	—		21,403.31	
Reserves for Depreciation:				
Buildings	69,965.66		85,417.47	
Machinery and Equipment	58,324.84	721,509.91	76,401.44	230,346.67
Net Capital Invested		$1,055,306.64		$1,188,167.63
				1,055,306.64
				2)2,243,474.27
Average Capital for the year ending 20th December 1921				$1,121,737.13
Interest on $1,121,737.13 @ 7%				78,481.60
Deduct Gross rentals from Tenants			60,464.49	
Interest received on Investments			14,630.87	75,095.36
				$ 3,386.24
Proportion of Doublemint production to all Gum production			14.9723%	$ 507.00

591 WM. WRIGLEY JR. COMPANY LIMITED

% OF AMOUNT OF DOUBLEMINT SALES TO AMOUNT OF ALL SALES OF GUM 20TH DECEMBER 1915 TO 19TH OCTOBER 1921

Date	Total of all sales	Doublemint Sales	% of Doublemint to all sales
From 21st Dec. 1915 to 20th Dec. 1916	$ 748,701.44	$ 133,862.14	17,8792
" 21st " 1916 " 20th " 1917	1,035,800.14	163,927.57	15.8262
" 21st " 1917 " 20th " 1918	1,538,000.46	216,613.59	14.0841
" 21st " 1918 " 20th " 1919	1,588,313.18	255,963.44	16.1154
" 21st " 1919 " 20th " 1920	1,401,573.49	228,112.58	16.2755
" 21st " 1920 " 19th Oct. 1921	1,350,979.56	209,622.65	15.5163
Total	$7,663,368.27	$1,208,101.97	

592 WM. WRIGLEY JR. COMPANY LIMITED

STATEMENT OF PROPORTION OF PRODUCTION OF DOUBLEMINT CHEWING GUM TO ALL GUMS

—BOXES—

Year	All Gums	Doublemint	Proportion of Doublemint to All Gum
1916	1,505,086	266,215	17.6877%
1917	2,137,213	317,759	14.8679%
1918	2,960,872	392,539	13.2575%
1919	3,232,541	488,006	15.0967%
1920	2,594,796	406,560	15.6691%
1921 to 19 Oct. 1921	2,614,687	391,478	14.9723%
	15,045,195	2,262,577	

593 Dominion of Canada, Province of Ontario, County of York, to-wit:

I, Albert Edward Nash, of the city of Toronto in the County of York and Province of Ontario, Chartered Accountant, Make Oath and Say as follows:—

1. That I am a resident of the City of Toronto, Canada.
2. That I am a member of the firm of Clarkson, Gordon and Dilworth, Chartered Accountants, having their principal office in the said City of Toronto.
3. That at the request of Wm. Wrigley Jr. Company Limited I caused to be prepared the foregoing account.
4. That the same was prepared under my supervision; and that I am familiar with the contents thereof; and that,

according to my best knowledge and belief said account fully and correctly shows all matters therein purported to be shown.

Sworn before me at the City of Toronto in the County of York, Province of Ontario this 18 day of April, A. D. 1922

(Seal) ALBERT E. NASH.

A. N. MALONE

A Notary Public in and for the Province of Ontario.

My Commission is for life.

(Endorsed) Filed Mar. 20, 1924.
John H. R. Jamar, Clerk.

657½ And on to-wit: the 7th day of January, A. D. 1925, there was filed in the Clerk's office of said court, a copy of certain Testimony taken before the Master, pages 2381-2382, Vol. VI, in words and figures following to-wit:

* * * * * *

EXCERPTS FROM MASTER'S RECORD.

216 And on to-wit. the 27th day of January, A. D. 1920, there was filed in the Clerk's office of said court a certain Certificate by Master, in words and figures following to-wit:

217 * * * No. 488 * * *

I, Charles, B. Morrison, Master in Chancery, to whom the above entitled case was heretofore referred, do hereby certify than on Friday, the 9th day of January, 1920, the following proceedings were had and taken before the undersigned:

218 Friday, January 9, 1920
10:30 o'clock a. m.

Met pursuant to adjournment.

Present:

Messrs. Aldrick, Mayer, Lane.

Mr. Aldrich: May it please the Master, we have decided on behalf of L. P. Larson, Jr. Company to decline, at the present time at least, to furnish any more information demanded by opposing counsel in this hearing. We recognize to the fullest extent that as to matters within the Master's jurisdiction all questions should be reserved until the coming

in of the Master's report and any complaint that we may have to make with reference to the Master's action in the case be then submitted to the consideration of the court, but it is our view as indicated by the numerous objections which we have made and the motions to strike out, that no part of this inquiry into the business of L. P. Larson, Jr. Company is within the jurisdiction of this Master; that the Master's authority is limited by the decretal order and it is not within that authority. That question we wish to submit to the court and we therefore say to the Master that we decline to furnish any more information and ask you to take such action
219 as is necessary to bring the matter to the consideration of the court. I don't wish to engage in any discussion about it or argument because I think it has been adequately presented heretofore as to whether this evidence is such evidence as should be received or is within the terms of the decretal order.

Mr. Mayer: In view of counsel's statement, I will proceed to put some questions to the witness and so far as pertains to the attitude of counsel in refusing to produce any more documents, when we get to a point that there is nothing further to proceed with before the Master or when we get to a point where we think that we cannot go on without the production of the documents and information which counsel now says will not be produced, we will take such steps as we then think justice demands.

L. P. LARSON, JR., resumed the stand.

Direct Examination by Mr. Mayer (Con't).

Q. Mr. Larson, at the adjournment last night you were asked to produce your cash book and ledger showing the payment for the order of December 19, 1913, from the Fremont Bottle Works. Have you done so?

Mr. Aldrich: Mr. Larson is instructed that I desire to present the question I have indicated to the court and
220 we decline to furnish any further information with reference to Mr. Larsons' business as not within the jurisdiction of the Master.

Mr. Mayer: Q. What is your answer?

Mr. Aldrich: I submit he is not compelled to answer.

Mr. Mayer: I beg your pardon.

Mr. Aldrich: I am here to represent him.

The Master: I think he should answer the question, Mr.

Aldrich of course, he will be guided by your directions, but, as I understand the practice, the Master has, after he refuses to answer, to direct him to do so.

Mr. Mayer. That is exactly it. I am laying the foundation for that, your Honor, I am laying the foundation for his personally refusing.

Mr. Aldrich: I instruct the witness to decline to answer the question.

Mr. Mayer: Q. Do you decline to answer the question, Mr. Larson?

The Master: The Master directs you to answer the question put to you by counsel. Do you still decline to answer?

A. I want to abide by the rules that the Master lays down according to my counsel's advice.

Mr. Mayer: Q. Do you decline?

Mr. Aldrich: He does decline.

Mr. Mayer: I want the witness to answer, Mr. Aldrich.

The Master: Do you decline to answer the question
221 or produce the books on the advice of counsel?

The Witness: Can I speak to my counsel a minute.

The Master: Yes.

(Witness confers with Mr. Aldrich.)

A. Yes sir. I decline.

Mr. Mayer: Q. Do you mean that you decline to say whether or not you have brought in the cash book and ledger that you were directed last night by the Master to produce?

A. No, sir.

Q. Well, have you produced those books?

A. I have the books according to the Master's directions here.

Q. Will you please produce that part of the cash book which shows payment, if there was a payment made for the 100 boxes of Wintermint gum which you yesterday testified were sold to the Fremont Bottle Works December 19, 1913?

Mr. Aldrich: I instruct the witness to decline to produce any further information about L. P. Larson, Jr.'s Business.

Mr. Mayer: Q. Do you decline to produce any information pertaining to L. P. Larson, Jr. Company's business?

The Witness: May I speak to counsel:

The Master: Yes.

(Witness confers with Mr. Aldrich.)

A. I do, according to my counsel's advice.

Mr. Mayer: Q. Do you base that refusal upon the
222 ground that by giving information you might incriminate yourself or tend to incriminate yourself?

A. No, not at all.

Q. In saying that you decline to give any further information pertaining to the business of L. P. Larson, Jr. do you mean also to include L. P. Larson, Jr. Company's business?

Mr. Aldrich: My instructions to the witness were based on the Jr. Company's business, not on L. P. Larson, Jr.'s.

Mr. Mayer: Q. Answer the question, please.

A. I refuse, on the advice of my counsel.

Q. Do you base that refusal upon the ground that by furnishing information of the kind that you have heretofore been requested to produce and which the master has held was proper to be produced, that you may thereby tend to incriminate yourself?

The Master: You may speak to Mr. Aldrich if you want?

Mr. Aldrich: The question is whether you refuse to answer because your answer might incriminate you.

A. No not at all.

Mr. Mayer: Q. Do you include in your refusal to produce or give any further information the business or affairs of the Zulu Manufacturing Company?

Mr. Aldrich: The witness is instructed to refuse any further information as to the Zulu Manufacturing Company 223 as not within the jurisdiction of the Master.

Mr. Mayer: Q. What is your answer, Mr. Larson?

The Master: You may talk to Mr. Aldrich if you wish to.

(Witness confers with Mr. Aldrich.)

A. I do refuse on the advice of my counsel.

Mr. Mayer: Q. Your answer is not responsive.

(Question read.)

A. I do on the advice of my counsel.

Q. And do you base that refusal upon the ground that the answer might tend to incriminate yourself?

A. Not at all.

Q. Then to avoid any misunderstanding, Mr. Larson, I will ask you this question: Do you now refuse to furnish any information or produce any documents or records or books which information, documents, records, and books the Master has ruled should be properly furnished here, whether such information, books records and documents pertain to the business of L. P. Larson, Jr. personally and individually, or whether they pertain to the business of L. P. Larson, Jr. Company or whether they pertain to the business of the Zulu Manufacturing Company?

A. I do on the advice of my counsel.

Q. And do you also say that such refusal is not in any way based upon a fear that to comply with the Master's instructions or with the requests heretofore made of you to
224 produce information or documents might tend to incriminate you?

A. I have no fear in any way of being incriminated on anything that the Master has ordered to be produced or the counsel on the other side.

Q. And your only reason then for refusing to furnish any further information or produce any books or documents of the type described is because your counsel advises you not to do so?

A. Yes, sir.

Mr. Mayer: I will now ask the Master to direct the witness to produce all of the books and records which the Master has heretofore directed him to produce.

The Master: The Master directs you to produce here for use on this hearing the books and records and papers that the Master has heretofore directed you to produce, whether or not the same have already been or have not been produced.

Mr. Aldrich: I instruct the witness to decline to comply with the Master's request, for the purpose of presenting the matter to higher court.

Mr. Mayer: Q. Do you refuse?

A. I do.

Q. Do you base that refusal upon any ground that might tend to incriminate you?

A. Not a bit.

Q. Do you base it upon any ground other than that
225 your counsel has advised you not to do so?

A. I base it on the ground that my counsel has advised me to refuse to produce any more records.

Q. That is your only reason for refusing, is it?

A. Yes, sir.

Mr. Mayer: I want to state, if your Honor please, that it is impossible for me to conclude this examination of this witness in view of his attitude. I will now ask the Master to direct the witness to answer all of the questions which I ask the witness this morning and which the witness refused to answer.

The Master: The Master now directs you to answer all the questions put to you by counsel for the Wrigley Company this morning and which you have, on the advice of counsel, declined to answer. Do you refuse now to answer those questions?

A. I do under advice of counsel.

Mr. Mayer: Q. Is that refusal based in any way upon a fear on your part that to comply with the Master's directions might tend to incriminate you?

A. I have no fear of being incriminated in any way if I should answer the questions.

Q. And your only reason for declining to follow the directions of the Master is because of the instructions of Mr. Aldrich; is that right?

226 A. No, sir, not exactly.

Mr. Aldrich: He has Mr. Reed's opinion on it also, but then I dont think that question is proper, I am here representing him.

Whereupon an adjournment was taken since die.

227 I do further certify that 2389 pages of testimony and proceedings have been taken and transcribed and correctly state the proceedings had before the undersigned on such reference, and it was agreed by counsel that such transcript might be used by either side before the court on the hearing of the question as to whether the witness Larson should be required to answer the questions put to him and produce the books, records and papers referred to.

CHARLES B. MORRISON
Master

214 And afterwards on, to wit, the 27th day of January, 1920 this matter coming on to be heard, the following order was entered by the Court: Entered Jan. 27, 1920.

215 * * * No. 488 * * *

Now come the parties by their respective solicitors and now comes on to be heard the motion of the plaintiff for rule on L. P. Larson Jr., to answer certain questions, heretofore propounded to him and to produce certain information, books, documents and records before Charles B. Morrison, Master in Chancery, to whom this cause was heretofore referred, and now also comes on to be heard the motion of the defendant to strike from the record all the testimony of L. P. Larson, Jr. heretofore taken in said cause in reference to history and extent of business of the defendant herein. After hearing arguments of counsel in part on said respective motions, the further consideration of the same is hereby continued until tomorrow morning.

Filed January 27, 1920 John H. R. Jamar Clerk.

Entered Mar. 9, 1920.

227½ And afterwards on, to wit, the 9th day of March, 1920 this matter coming on to be heard, the following order was entered by the Court:

228 * * * No. 488 * * *

Tuesday, March 9, 1920

Present: Hon. George A. Carpenter, Judge of Said Court:

It is Ordered by the Court that the motion of the plaintiff for rule on L. P. Larson Jr., to answer certain questions, heretofore propounded to him and to produce certain information, books, documents and records before Charles B. Morrison, Master in Chancery, and motion of defendant to strike from the record all testimony of L. P. Larson, Jr., taken in this cause in reference to history and extent of the business of the defendant herein be, and each of them is hereby set for hearing on Friday, March 19, 1920.

Entered Mar. 19, 1920.

229 And afterwards on, to wit, the 19th day of March, 1920 this matter coming on to be heard, the following order was entered by the Court:

230 * * * No. 488 * * *

Friday, March 19, 1920.

Present: Hon. George A. Carpenter, Judge of Said Court:

Now come the parties by their respective solicitors and now comes on this day to be heard the motion of plaintiff for rule on L. P. Larson, Jr., to answer certain questions, heretofore propounded to him and to produce certain information, books, documents and records before Charles B. Morrison, Master in Chancery, and motion of defendant to strike from the record all testimony of L. P. Larson, Jr., taken in this cause in reference to history and extent of the business of the defendant herein. After hearing arguments of counsel, it is ordered by the court that the further consideration of this matter be postponed until Monday, March 22, 1920.

231 And on to-wit: the 19th day of March, A. D. 1920, there was filed in the Clerk's office of said court a certain Opinion, in words and figures following to-wit:

232 * * * No. 488 * * *

OPINION BY THE COURT.

Filed Mar. 19, 1920.

It seems to me, Mr. Aldrich, and Mr. Reed, that the position I must take is almost mandatory in the state of the record.

To begin where Mr. Aldrich left off, if the direction of the court in these cases, where the infringement is willful and malicious is that the infringing party shall make an accounting of the profits as well as the damages, it is punitive; the profits are given to the complaining party, in addition to the actual damages.

Now, I do not know, I cannot tell, from the reading of this mandate and opinion of the Court of Appeals whether they intended to adopt this drastic rule of compensating the Larson Company or to leave the Larson Company to their compensation in the shape of damages. There is nothing in the opinion—although the opinion did say something about the case tried down East, but it did not say that the Wrigley Company came into this court as a willful, malicious, fraudulent wrongdoer; and for that reason the Larson Company is entitled to an accounting of profits. The opinion might have said that, if the record justified it. It did not.

233 Now, there being a question in an unfair competition case, whether in a case where the infringement is willful, the doctrine of the Tea Rose Case and of the Hamilton Brown Shoe Company case applies or not, it seems to me that in fairness to both sides and with a view to having this litigation settled once for all, I should have the record made up before the Master, so that when the case comes before the Court of Appeals all of the facts may be presented, and all questions susceptible of argument may be definitely determined.

If that Court is of the opinion that irrespective of whether there is competition or not that the cross-complainant is entitled to everything that the plainiff made by the use of the infringing name or wrapper, whether in Alaska, China, Australia, New Zealand, or anywhere in the world, then the record should be in such shape that they can pass upon it.

I am very much of the opinion that in the absence of a statute that unfair competition means just exactly what the words imply. If I am not in competition with a man I cannot treat him unfairly as a competitor.

I can conceive of cases where a man knowing that
234 Mr. Reed and Mr. Aldrich were operating in Chicago under a label that was valuable to them, conceiving the idea that it is a local concern, that they have no foreign entanglements, if you please, should go to Australia—I place him as far from Chicago as I can—and start a market for those goods under that label, and he never comes in competition with Mr. Reed and Mr. Aldrich, and yet ten or fifteen or twenty years later you gentlemen discover—and the statute of limitations does not apply because you never knew it before, and laches does not apply—you discover after ten or fifteen or twenty years that he has been operating there on your label, selling the identical goods, and you file a bill against him, either there or here, is it conceivable that on the doctrine of unfair competition you can recover all of the profits that he made on that article?

That thought suggests itself to me and in my mind make it necessary for me to permit this evidence to go in.

I do not know just what the Court of Appeals intended by the use of the word "accounting". It has technical meaning. Appellate judges sometimes use general language; I won't say loose language, because our court does not.

But the profit feature of the unfair competition cases
235 may be something that the courts perhaps give in addition to damages. The punishment is the profit that the infringing party made.

The first relief, the natural relief, that is given to the injured party, is his compensation in the shape of damages.

But if the other party has acted maliciously and willfully, the plaintiff may, perhaps, have something in addition.

Now, instead of saying that the Wrigley Company must respond in damages to the Larson people, and in addition make an accounting of the profits, the Court of Appeals has used the general language: "The case is reversed and remanded for an injunction 'and accounting.' "

It seems to me that it is possible that the Court of Appeals may have used the word "accounting" in the sense that the Wrigley Company must appear before the Master and show what it had done, and when the damages of the Larson Company were assessed, pay them.

Now, I cannot say just exactly what the Court of Appeals meant. And under those circumstances I am going to let the Master go ahead. I am going to let the defendants here show where actual competition existed and to what, whether substantial, intermittent or sporadic.

Under the ruling in the Flour Case and the Shoe Case I think it is important for the defense to be able to show that
the Larson was only in a certain field, and that they
236 were in a separate and very much wider and broader
field, and therefore did not come in competition at all.

I am doing this, as I say, to save expenses and time for everybody interested in this lawsuit. If I should rule out the objected testimony, it would follow as a matter of course that my decree would be for the exact amount of profit that the Wrigley Company made on every stick of Doublemint gum, irrespective of damages to the Larson Company.

Then if the Court of Appeals deemed these other matters were important, four or five or six months would have been wasted, a possible application for a writ of certiorari, and another year or two gone by, and the matter still unsettled, if the Court of Appeals sends it back.

Although I have some definite views I am not expressing any opinion now what the law is finally to be applied. But it seems to me that having a doubt as to exactly what the Court of Appeals meant and the books showing some inconsistency as to whether Larson is entitled to the profits that
Wrigley makes as distinguished from damages, I believe
237 that it is my duty to direct the witness to answer these
questions, and you may prepare an order accordingly.

Mr. Reed: What about the production of the books?

Mr. Mayer: To produce the books—

The Court: Here is another thing. Mr. Mayer stated during his argument that the question of the burden of proof does not enter into this motion.

Mr. Mayer: Ultimately, of course, it will.

The Court: I can see very readily that where the defendant is required to account for profits that in the first instances he must state his account, and the other side surcharges and falsifies. But if an injured party is entitled to damages, I would say, speaking offhand, that the burden of proof lay on the injured party to show wherein he was damaged and to what extent. If there is no evidence in this record at all that the Larson Company has done any business anywhere outside of the City of Chicago it is barely possible that Mr. Mayer and Mr. Lane won't care to put in any more evidence. But if the Larson Company has come in and has offered proof as to where they did business, and when they conducted it, when they began it, I think they have opened the door to reasonable cross examination.

238 Mr. Aldrich: There is also a motion here to strike out the whole deposition on that subject—

The Court: I will let the Master follow the original order.

Mr. Lane: And overrule the motion.

Mr. Mayer: And direct the Master to proceed in accordance with your opinion. And require the production of books and records—

The Court: You may present the order.

Mr. Mayer: We will draw the order.

The Court: I assume that the same method of conducting the examination will prevail. You have already stated of record that you had no desire to pry into their secrets.

Mr. Lane: You are absolutely right about that.

Mr. Mayer: We have no desire to get the names of their customers, unless it appears to the Master that it is necessary in a particular instance to have it—if he should testify that he never made a sale to that person—

The Court: I think the Master is competent to safeguard the rights of the Larson Company.

Mr. Lane: He said that repeatedly.

Mr. Mayer: In order to avoid any misunderstanding before the Master as to the rulings that your Honor has made, I understand your Honor is not now ruling that the Master should not permit the names of any customer
239 to be disclosed, but that that matter is left for him to rule on as occasion requires.

The Court: Exactly. And I say that I am taking you at your word, that you have no desire to get a list of their customers, in order to interfere with their business in any way, or to get their trade secrets.

Mr. Mayer: I say unqualifiedly not. But I also state that it may develop from the examination that such information is necessary.

The Court: Then I will let the Master rule on that proposition when it arises.

Mr. Reed: Shall we embody in that order a provision as to a reservation of the rights of the counter-complainant that this evidence is taken subject to our objection.

Mr. Lane: It is already of record.

The Court: The record saves itself.

Mr. Aldrich: We have already done that all the way through the record.

Adjourned.

(Endorsed) Filed Mar. 19, 1920 John H. R. Jamar, Clerk.

240 And on to-wit: the 22nd day of March, A. D. 1920, there was entered in said court the following Order, to-wit: Entered Mar. 22, 1920.

241 * * * 488 * * *

ORDER.

This cause having come on for hearing before this court upon the motion of said Wm. Wrigley Jr. Company to compel the witness, L. P. Larson, Jr., now on the stand in the accounting proceedings before Master Charles B. Morrison, to whom this case was referred by this court, to answer the questions heretofore propounded to him, and to produce for use and furnish before the Master the information, books, documents and records requested by him by counsel for said Wm. Wrigley Jr. Company, which the Master has directed said Larson to answer, produce and furnish, and particularly as shown by the record now before the court, certified by the Master; and also upon the motion of said L. P. Larson, Jr., that the evidence of said L. P. Larson, Jr. heretofore taken in this cause having reference to the history and extent of the business of said L. P. Larson Jr. Company, be stricken from the record as not germane to any inquiry submitted to the Master under the terms of the decree entered in this cause October 14, 1918, referring said cause to said Master, and said motions having been fully argued by

242 Charles H. Aldrich and Frank F. Reed, for the L. P. Larson Jr. Company, and by Isaac H. Mayer and Wallace R. Lane, for the Wm. Wrigley Jr. Company:

Now upon due consideration thereof, it is hereby ordered,

First: That said motion of the Wm. Wrigley Jr. Company to compel the witness, L. P. Larson, Jr., to answer the questions referred to in said motion, be and the same is hereby granted, and said witness is further ordered to answer said questions and also such further questions as may be required by the Master, and also to produce, for use and furnish before the Master, the information, books, documents and records referred to in said motion, and also such further information, books, documents and records as may be required by the Master.

Second: It is further ordered that the said motion of the said L. P. Larson Jr. Company to strike from the record

the evidence of said L. P. Larson, Jr. heretofore take in this cause having reference to the history and extent of the business of said L. P. Larson Jr. Company, as not germane to any inquiry submitted to the Master under the terms of said decree in this cause, be and the same is hereby overruled and denied.

Chicago, Illinois, 22 March, 1920.

(Signed) CARPENTER,
U. S. District Judge.

O. K.
CHARLES H. ALDRICH,
FRANK F. REED. (Signed)

Filed: March 22, 1920.

Entered Apr. 3, 1920.

243 And afterwards on, to wit, the 3rd day of April, 1920 this matter coming on to be heard, the following order was entered by the Court:

244 * * * 488 * * *

Saturday, April 3, 1920.

Present: Hon. George A. Carpenter, Judge of Said Court:

Now come the parties by their respective solicitors and now comes on to be heard the motion of the defendant for an order allowing an appeal to the United States Circuit Court of Appeals, from the order heretofore entered herein on March 19, 1920.

It is ordered by the Court that said motion be entered and continued for hearing.

245 And afterwards on, to wit, the 7th day of July, 1920 this matter coming on to be heard, the following order was entered by the Court:

246 * * * 488 * * *

July 7, 1920

Present: Honorable George A. Carpenter, District Judge.

ORDER.

It is hereby ordered that the stipulation dated and filed herein July 7, 1920, be approved and made a part of the record in said cause and that a copy thereof and of the order be included in the transcript of the record on the appeal pending in said cause. Entered July 7, 1920.

Enter: CARPENTER,
Judge of said District Court.

July 7, 1920.
O. K.
ISAAC H. MAYER
WALLACE R. LANE
FRANK F. REED
CHARLES H. ALDRICH.

247 And on to-wit: the 7th day of July, A. D. 1920, there was filed in the Clerk's office of said court a certain Stipulation, in words and figures following to-wit: Filed July 7, 1920.

248 * * * 448 * * *

First: It is hereby stipulated that the Clerk shall include in the transcript of the record in this appeal all matters named in the praecipe filed with the Clerk of the District Court by the solicitors of the L. P. Larson Jr. Company on the 17th day of April, 1920, and also the objections and amendments filed herein July 7, 1920 by plaintiff, to defendant's condensed statement of the evidence, and in addition thereto it is agreed as follows:

Second: The complete printed record in numbers 2498 and 2500 in the United States Circuit Court of Appeals, Seventh Circuit, and also the testimony taken and exhibits and proceedings had in the District Court in said causes and on file therein, and also in this cause on reference to Charles B. Morrison, Esq., Master in Chancery in said cause, together with all the exhibits therein referred to, shall be deemed be-

fore the United States Circuit Court of Appeals herein as physical exhibits and need not be included in the certificates, or printed, but such parts thereof as the solicitors of the respective parties may desire to print as an appendix to any briefs on appeal in said cause shall be deemed a part of the record therein, reserving to the Court of Appeals, however, the right to determine whether any part not necessary to the issue involved in said appeal has been included in any
249 appendix so printed and filed, both in the taxation of costs and upon any appeal or other proceeding taken by either party to reverse any decision upon the issues involved.

These records, testimony, exhibits, and proceedings are thus placed before the Circuit Court of Appeals and the same, together with the matters contained in the record prepared under the praecipe above referred to, and in said objections and amendments and in the appendices as filed, subject to the reservations above made, shall be deemed to constitute the record in said cause and may be verified if desired.

Third: The parties hereto further stipulate and agree that the signature of the counsel for Wm. J. Wrigley Jr. Company hereto shall in no wise be deemed a waiver of any motion heretofore or hereafter made by such counsel to dismiss the appeal heretofore allowed herein, or in any acquiescence on their part in the right of said L. P. Larson Jr. Company to take said appeal, and all rights to oppose said appeal are hereby reserved to such counsel.

Fourth: It is agreed that the prepared statement of so much of the evidence and record as is indicated in the praecipe heretofore filed by the solicitor for the appellant and in said objections and amendments filed by the solicitors for Wm. Wrigley Jr. Company need not be signed by the District Judge and that this stipulation, the transcript, objections and amendments referred to in the First paragraph hereof, and any order hereon, be included in the transcript for appeal and printed in the Circuit Court of Appeals.

Dated, Chicago, July 7, 1920.

FRANK F. REED
CHARLES H. ALDRICH
Solicitors for L. P. Larson Jr. Company
ISAAC H. MAYER
WALLACE R. LANE
Solicitors for Wm. Wrigley Jr. Company

(Endorsed) Filed July 7, 1920 John H. R. Jamar, Clerk.